

LEGISLATIVE COUNCIL BRIEF

Merchant Shipping (Safety) Ordinance
(Chapter 369)

MERCHANT SHIPPING (SAFETY) (AMENDMENT) BILL 2009

INTRODUCTION

At the meeting of the Executive Council on 5 May 2009, the Council ADVISED and the Chief Executive ORDERED that the Merchant Shipping (Safety) (Amendment) Bill 2009 (the Bill), at Annex, should be introduced into the Legislative Council to, among other things, enable the use of a direct reference approach in making subsidiary legislation under the Merchant Shipping (Safety) Ordinance (Chapter 369) (the Ordinance) to achieve timely implementation of marine safety-related international conventions, and also to adapt, remove or replace outdated references with colonial connotation in order to bring these provisions into conformity with the Basic Law and with the status of Hong Kong as a Special Administrative Region of the People's Republic of China.

JUSTIFICATIONS

2. Hong Kong has an international obligation to implement the latest amendments to those marine safety-related conventions adopted by the International Maritime Organization (IMO) and applicable to Hong Kong. These include the International Convention for the Safety of Life at Sea, 1974 (SOLAS), the International Convention on Load Lines, 1966 (Loadlines) and the International Regulations for Preventing Collisions at Sea, 1972 (Colregs), which are implemented through the Ordinance and its subsidiary legislation.

3. There are, on average, two voluminous sets of amendments every year covering a wide range of technical details related to marine safety. Under the existing section 112B of the Ordinance, its subsidiary legislation has to be re-written from time to time to spell out the corresponding amendments. Thus, there is always an undesirable time gap between the amendments made to the international standards and the corresponding amendments to local legislation. The enactment of the Bill will thus enable the more timely implementation of marine safety-related international agreements in Hong Kong.

4. In addition, it is necessary to adapt, remove or replace outdated references with colonial connotation and desirable to streamline administrative procedures by transferring certain statutory powers and functions through enactment of the Bill.

THE BILL

5. The main provisions of the Bill are –

Direct Reference Approach

- (a) clause 31 amends section 112B(i) of the Ordinance to enable regulations made under the Ordinance to refer directly to provisions of international agreements applicable to Hong Kong;

Adaptation of Outdated References

- (b) adaptations are made to the following provisions to bring them into conformity with the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and with the status of Hong Kong as a Special Administrative Region of the People's Republic of China –
 - (i) sections 12, 74(1), 75(7), 109 and 121 of the Ordinance (substituting references to “the Governor” with references to “the Chief Executive”);
 - (ii) regulations 3, 4, 6, 8, 10, 13, 14 and 17 of and Forms 1, 2, 3 and 4 of the First Schedule to the Merchant Shipping (Court of Survey) Regulations (Cap. 369 sub. leg. A) (substituting references to “the Governor” with references to “the Chief Executive”);

- (iii) sections 69, 70 and 89(1) of the Ordinance (substituting references to “the Crown” with references to “the Government”);
- (c) amendments are made to the following provisions to remove or replace certain references to British enactments and certain obsolete references relating to the United Kingdom –
- (i) the definition of “Merchant Shipping Acts” in section 2(1) of the Ordinance is repealed. References to “Merchant Shipping Acts” in sections 6(1), 110(5), 114(3) and 115(1)(j)(i) of the Ordinance and regulation 2 (in the definition of “surveyor”) of the Merchant Shipping (Safety)(Cargo Ship Safety Equipment Survey) Regulations (Cap. 369 sub. leg. T) are also removed;
 - (ii) reference to “British measurement” in section 2(1) of the Ordinance is replaced by reference to local legislation in the definition of “tons” and “tonnage”. References to “Her Majesty in Council” in the definition of “Convention country” in sections 4(1) and 47(1) of the Ordinance are further removed;
 - (iii) references to “British ship” in sections 58(5), 61(4) and 68(1) of the Ordinance and reference to “British mercantile marine” in section 74(2)(b) of the Ordinance are removed;

Streamlining of Administrative Procedures

- (d) clause 7 amends section 11(3)(b) of the Ordinance by transferring the power to specify ships to be surveyed from the then Governor to the Director of Marine;
- (e) clause 30(1), (3) and (4) amends section 110(1), (3A) and (3B) of the Ordinance by transferring the power to make regulations as to fees on surveys from the then Governor in Council to the Financial Secretary;
- (f) clause 32 amends section 113 of the Ordinance by transferring the power to give directions to the Director of Marine and to any public officer with respect to the performance or exercise of their respective duties or powers under the Ordinance from the then Governor to the Secretary for Transport and Housing;

Others

- (g) technical amendments are made to sections 2(1), 24(1), 31, 33, 47(1), 51, 55(1) and 57 of the Ordinance to bring the relevant requirements in line with SOLAS and Loadlines;
- (h) some other minor and consequential amendments.

LEGISLATIVE TIMETABLE

6. The Bill will be published in the Gazette on 15 May 2009 and introduced into the Legislative Council on 27 May 2009.

IMPLICATIONS OF THE PROPOSAL

7. The proposal has no economic implications to ship operators as vessels engaged in international voyages are subject to the same international safety requirements in other parts of the world. Marine Department will absorb the work for implementing the latest international requirements through redeployment of its existing staff and resources. It has no productivity, environmental or sustainability implications. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the current binding effect of the Ordinance.

PUBLIC CONSULTATION

8. We consulted and obtained the support of the Legislative Council Panel on Economic Development on 30 March 2009.

9. We have also consulted the Shipping Consultative Committee, which includes representative from the Hong Kong Shipowners' Association. They are in support of the proposed amendments.

PUBLICITY

10. A press release will be issued on 13 May 2009. A spokesman will be available to handle enquiries.

ENQUIRIES

11. Any enquiries on this brief can be addressed to Mr. Wilson Tsang, Assistant Secretary for Transport and Housing (Tel: 2121 2340) or Mr. S.F. Wong, Senior Surveyor of Ships (Tel: 2852 4605).

Transport and Housing Bureau

13 May 2009

**MERCHANT SHIPPING (SAFETY) (AMENDMENT) BILL
2009**

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A BILL

To

Amend the Merchant Shipping (Safety) Ordinance and certain subsidiary legislation under that Ordinance to –

- (a) enable the timely implementation of international agreements related to marine safety by referring directly to the provisions of those agreements;
- (b) bring certain requirements into line with the relevant international agreements;
- (c) transfer certain statutory powers and functions;
- (d) adapt certain provisions to bring them into conformity with the Basic Law and with the status of Hong Kong as a Special Administrative Region of the People's Republic of China;
- (e) remove or replace certain references to British enactments and certain obsolete references relating to the United Kingdom;
- (f) remove discrepancies in meaning between the 2 texts of certain provisions; and
- (g) make related, consequential and other minor amendments.

Enacted by the Legislative Council.

PART 1

PRELIMINARY

1. Short title

This Ordinance may be cited as the Merchant Shipping (Safety) (Amendment) Ordinance 2009.

2. Commencement

(1) This Part and sections 3(5), 6, 7, 8, 13, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30(1), (2), (3), (4), (5), (6) and (7), 31, 32, 34(2), 35, 36, 38, 39, 40, 41, 42(1) and (2), 44(3) and 46(1) and (3) come into operation on the day on which this Ordinance is published in the Gazette.

(2) Sections 3(1), (2), (3), (4) and (6), 4, 5, 9, 10, 11, 12, 14, 15, 16, 17, 30(8), 33, 34(1), 37, 42(3), 43, 44(1), (2) and (4), 45, 46(2) and 47 and Part 4 come into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.

PART 2

AMENDMENTS TO THE MERCHANT SHIPPING (SAFETY) ORDINANCE

3. Interpretation

(1) Section 2(1) of the Merchant Shipping (Safety) Ordinance (Cap. 369) is amended, in the definition of “Convention”, by adding “, or any convention that replaces that Convention or any successor convention, as amended from time to time and as applicable to Hong Kong” after “1974”.

(2) Section 2(1) is amended by repealing the definition of “Merchant Shipping Acts”.

(3) Section 2(1) is amended by repealing the definition of “tons” and “tonnage” and substituting –

““tons” (噸) and “tonnage” (噸位) mean tons and tonnage as calculated in accordance with the Merchant Shipping (Registration) (Tonnage) Regulations (Cap. 415 sub. leg. C);”.

(4) Section 2(1) is amended by adding –

““accepted Convention certificate” (獲認可的公約證明書) means a certificate in the form prescribed by the Convention;

“Convention country” (公約國) means, except in Part IV, a country which is a party to the Convention;

“Convention of 1966” (1966 年公約) means the International Convention on Load Lines signed in London on 5 April 1966, or any convention that replaces that Convention or any successor convention, as amended from time to time and as applicable to Hong Kong;

“Convention ship” (公約船) means a ship registered in a Convention country and “Convention passenger ship” (公約客船) is to be construed accordingly;

“international voyage” (國際航程) means, except in Part IV and subject to subsection (2), a voyage between –

(a) Hong Kong and a port outside the People’s Republic of China; or

(b) a port in a Convention country and a port outside that Convention country (whether in a Convention country or not);”.

(5) Section 2(1) is amended by adding –

““Secretary” (局長) means the Secretary for Transport and Housing;”.

(6) Section 2(2) is repealed and the following substituted –

“(2) In this Ordinance (except Part IV), for the purposes of the definition of “international voyage” in subsection (1), no account is to be taken of any deviation by a ship from its intended voyage due solely to stress of weather or any other circumstances that neither the master nor the owner of the ship could have prevented or forestalled.”.

4. Interpretation

(1) The heading of section 4 is amended by adding “**of Part II**” after “**Interpretation**”.

(2) Section 4(1) is amended by repealing the definitions of “accepted Convention certificate”, “Convention country”, “Convention ship” and “international voyage”.

(3) Section 4(2) is repealed and the following substituted –

“(2) In this Part, for the purposes of the definition of “short international voyage” in subsection (1), no account is to be taken of any deviation by a ship from its intended voyage due solely to stress of weather or any other circumstances that neither the master nor the owner of the ship could have prevented or forestalled.”.

5. Powers and duties of Government surveyors

Section 6(1) is amended by repealing “, the Merchant Shipping Acts”.

6. Approval of organizations to survey ships and issue certificates

(1) Section 8(1) is amended –

(a) by repealing “Secretary for Transport and Housing” and substituting “Secretary”;

(b) by repealing “this Part” and substituting “this Ordinance”.

(2) Section 8(2) is amended by repealing “Secretary for Transport and Housing” and substituting “Secretary”.

7. Survey of ships other than passenger ships

Section 11(3)(b) is amended by repealing “Governor with the consent of the Secretary of State for Trade” and substituting “Director”.

8. Appeal to court of survey

(1) Section 12(1) is amended by repealing “the constitution thereof by the Governor” and substituting “its appointment by the Chief Executive”.

(2) Section 12(2) is amended by repealing “Governor” where it twice appears and substituting “Chief Executive”.

9. Cargo ship safety construction certificates and exemption certificates

Section 21(1)(a) is amended by repealing “or by the Protocol of 1988 relating to the Convention”.

10. Certificates to be exhibited

(1) The heading of section 24 is amended by repealing “**Certificates to be exhibited**” and substituting “**Availability of certificates**”.

(2) Section 24(1) is repealed and the following substituted –

“(1) Where a certificate is issued in respect of a ship under this Part, the owner or master of the ship shall ensure that the certificate is kept readily available on board the ship, so long as the certificate remains in force and the ship is in use, for inspection at all reasonable times by –

(a) when the ship is in Hong Kong, a Government surveyor; or

(b) when the ship is in a port in a Convention country, any person duly authorized for that purpose by the government of that Convention country.”.

11. Section substituted

Section 31 is repealed and the following substituted –

“31. Issue or endorsement of certificate at request of Director

(1) The Director may request the government of a Convention country to cause a ship registered in Hong Kong to which this Part applies to be surveyed and to –

- (a) issue or authorize the issue of, in respect of the ship, any certificate that the Director may issue under this Part; or
- (b) where appropriate, endorse or authorize the endorsement of any such certificate issued in respect of the ship in accordance with the Convention.

(2) A certificate issued pursuant to a request under subsection (1) and containing a statement that it has been so issued has effect for the purposes of this Part as if the certificate had been issued by the Director.

(3) For the purposes of this Part, an endorsement made on the certificate by the government of a Convention country on behalf of the Director in conformity with the Convention has the same effect as an endorsement made by the Director under this Part.”.

12. Certificates of Convention ships not registered in Hong Kong

Section 33(1) is repealed and the following substituted –

“(1) The Director may, at the request of the government of a Convention country, cause a ship registered in that Convention country to be surveyed and, if the Director is satisfied that the requirements of the Convention are complied with, the Director may –

- (a) issue or authorize the issue of, in respect of the ship, any certificate the issue of which in respect of a ship registered in Hong Kong is authorized under this Part; or

- (b) where appropriate, endorse or authorize the endorsement of any such certificate issued in respect of the ship in accordance with the Convention.

(1A) A certificate issued pursuant to a request under subsection (1) and containing a statement that it has been so issued has effect for the purposes of this Part as if the certificate had been issued by the relevant government.”.

13. Application to foreign ships

The heading of section 46 is amended by repealing “**foreign ships**” and substituting “**ships not registered in Hong Kong**”.

14. Interpretation

(1) The heading of section 47 is amended by adding “**of Part IV**” after “**Interpretation**”.

(2) Section 47(1) is amended by repealing the definition of “Contracting Government”.

(3) Section 47(1) is amended by repealing the definition of “Convention country” and substituting –

““Convention country” (公約國) means –

- (a) a country which is a party to the Convention of 1966; or
- (b) a territory to which the Convention of 1966 extends;”.

(4) Section 47(1) is amended by repealing the definition of “Convention of 1966”.

(5) Section 47(1) is amended by repealing the definition of “international voyage” and substituting –

““international voyage” (國際航程) means, subject to subsection

(2), a voyage between –

- (a) Hong Kong and a port outside the People’s Republic of China; or
- (b) a port in a Convention country and a port outside that Convention country (whether in a Convention country or not);”.

(6) Section 47(1) is amended, in the definition of “new ship”, by repealing paragraphs (a) and (b) and substituting –

- “(a) in relation to a ship registered in Hong Kong or which flies the flag of Hong Kong, 16 August 1972;
- (b) in relation to a ship whose parent country is a Convention country (other than a ship mentioned in paragraph (a)), the date from which the Convention of 1966 has come into force in respect of that Convention country or (in the case of a territory) the date from which the Convention of 1966 has been extended to that territory; and
- (c) in relation to any other ship, 16 August 1972;”.

(7) Section 47(4) is repealed.

15. Issue of load line certificate

(1) The heading of section 51 is amended by adding “**or endorsement**” after “**Issue**”.

(2) Section 51(3) is repealed and the following substituted –

“(3) The Director may request the government of a Convention country to cause a ship registered in Hong Kong to which this Part applies to be surveyed and to –

- (a) issue or authorize the issue of, in respect of the ship, an International Load Line Certificate; or

(b) where appropriate, endorse or authorize the endorsement of the International Load Line Certificate issued in respect of the ship in accordance with the Convention of 1966.

(4) A certificate issued pursuant to a request under subsection (3) and containing a statement that it has been so issued has effect for the purposes of this Part as if the certificate had been issued by the Director.

(5) For the purposes of this Part, an endorsement made on the certificate by the government of a Convention country on behalf of the Director in conformity with the Convention of 1966 has the same effect as an endorsement made by the Director under this Part.”.

16. Display of load line certificate and entry of particulars in official log-book

(1) The heading of section 55 is amended by repealing “**Display**” and substituting “**Availability**”.

(2) Section 55(1)(a) is repealed and the following substituted –

“(a) the owner or master of the ship shall ensure that the certificate is kept readily available on board the ship, so long as the certificate remains in force and the ship is in use, for inspection at all reasonable times by –

(i) when the ship is in Hong Kong, a Government surveyor; or

(ii) when the ship is in a port in a Convention country, any person duly authorized for that purpose by the government of that Convention country; and”.

17. Valid Convention certificates

Section 57(2) is repealed and the following substituted –

“(2) The Director may, at the request of the government of the parent country of a ship to which this section applies, cause the ship to be surveyed and, if the Director is satisfied that the requirements of the Convention of 1966 are complied with, the Director may –

- (a) issue or authorize the issue of, in respect of the ship, a certificate in such form as may be prescribed by the Convention of 1966; or
- (b) where appropriate, endorse or authorize the endorsement of a certificate issued in respect of the ship in accordance with the Convention of 1966.

(2A) A certificate issued pursuant to a request under subsection (2) and containing a statement that it has been so issued has effect for the purposes of this Part as if the certificate had been issued by the relevant government.”.

18. Compliance with load line regulations

Section 58(5) is amended by repealing everything after “assignment” and substituting “, section 72 has effect in relation to the ship as if it were unsafe for the purposes of that section.”.

19. Provisions as to inspection

(1) Section 61(4) is amended by repealing everything after “human life” and substituting “, section 72 has effect in relation to the ship as if it were unsafe for the purposes of that section.”.

(2) Section 61(5) is amended, in the Chinese text, by repealing “不會危及人命而適合” and substituting “適合在不危害人命的情況下”.

20. Offence in respect of dangerously unsafe ship

(1) Section 67(1) is amended, in the Chinese text, by repealing “會嚴重危及人命而不適合” and substituting “不適合在不嚴重危害人命的情況下”.

(2) Section 67(2)(a) is amended, in the Chinese text, by repealing everything after “適合” and substituting “在不會因控罪指明的第(1)款所列事項而嚴重危害人命的情況下出海；或”.

21. Power to detain unsafe ships, and procedure for detention

Section 68(1) is amended by repealing “or any British ship” and substituting “and”.

22. Liability for costs and damages

(1) Section 69(1) is amended by repealing “Crown” and substituting “Government”.

(2) Section 69(2) is amended by repealing “Crown” and substituting “Government”.

23. Power to require security for costs from complainant

Section 70 is amended by repealing “Crown” and substituting “Government”.

24. Application of detention provisions to foreign ships

The heading of section 72 is amended, in the English text, by repealing “foreign ships” and substituting “ships not registered in Hong Kong”.

25. Appointment of courts of survey

(1) Section 74(1) is amended by repealing “Governor” and substituting “Chief Executive”.

(2) Section 74(2)(b) is amended by repealing “masters of the British mercantile marine” and substituting “master mariners”.

26. Procedure in respect of courts of survey

Section 75(7) is amended by repealing “Governor” where it twice appears and substituting “Chief Executive”.

27. Notice of loss of Hong Kong ship to be given to the Director

The heading of section 81 is amended by repealing “**Hong Kong ship**” and substituting “**ship registered in Hong Kong**”.

28. Forfeiture of dangerous goods

Section 89(1) is amended by repealing “Crown” and substituting “Government”.

29. Regulations as to procedure, fees, etc. in courts of survey

Section 109 is amended by repealing “Governor in Council” and substituting “Chief Executive in Council”.

30. Regulations as to fees and surveys

(1) Section 110(1) is amended by repealing “Governor in Council” and substituting “Financial Secretary”.

(2) Section 110(2) is amended by repealing “of Hong Kong”.

(3) Section 110(3A) is amended by repealing “Governor in Council” and substituting “Financial Secretary”.

(4) Section 110(3B) is amended by repealing “Governor in Council” and substituting “Financial Secretary”.

(5) Section 110(3B)(b)(i) is amended by repealing “regulations 6(2) and 7(3)” and substituting “regulation 6(2)”.

(6) Section 110(3C) is amended by repealing “Secretary for Transport and Housing” and substituting “Secretary”.

(7) Section 110(4) is amended by repealing “Secretary for Transport and Housing” and substituting “Secretary”.

(8) Section 110(5) is repealed.

31. Supplementary regulation-making power in relation to international agreements applicable to Hong Kong

Section 112B(i) is amended by adding “or refer directly to” after “set out”.

32. Power of Governor to give directions

(1) The heading of section 113 is amended by repealing “**Governor**” and substituting “**Secretary**”.

(2) Section 113(1) is amended by repealing “Governor” and substituting “Secretary”.

(3) Section 113(2) is amended by repealing “Governor” and substituting “Secretary”.

33. Power to exempt

Section 114(3) is amended by repealing “under the Merchant Shipping Acts or”.

34. Powers of inspection

(1) Section 115(1)(j)(i) is amended –

(a) by repealing “this Ordinance,” and substituting “this Ordinance or”;

(b) by repealing “or the Merchant Shipping Acts”.

(2) Section 115(3) is amended by repealing “Secretary for Transport and Housing” and substituting “Secretary”.

35. Notice to be given to consular officer where proceedings taken in respect of foreign ships

The heading of section 119 is amended, in the English text, by repealing “foreign ships” and substituting “ships not registered in Hong Kong”.

36. Payment of remuneration to certain persons

Section 121 is amended by repealing “Governor” and substituting “Chief Executive”.

37. Saving

Section 123(1) and (2) is repealed.

38. “Secretary for Transport and Housing” substituted by “Secretary”

The following provisions are amended by repealing “Secretary for Transport and Housing” wherever it appears and substituting “Secretary” –

- (a) section 5(1);
- (b) section 93(1);
- (c) section 94(1) and (2);
- (d) section 95(1);
- (e) section 96(1) and (2);
- (f) section 97(1) and (2);
- (g) section 98(1);
- (h) section 99(1) and (2);
- (i) section 100(1);
- (j) section 101(1);
- (k) section 102(1);
- (l) section 103(1);
- (m) section 104;
- (n) section 105(1) and (3);
- (o) section 106;
- (p) section 107(1);

(q) section 108(1).

PART 3

AMENDMENTS TO SUBSIDIARY LEGISLATION MADE UNDER THE MERCHANT SHIPPING (SAFETY) ORDINANCE

Merchant Shipping (Court of Survey) Regulations

39. Calling of witness by Governor's representative

(1) The heading of regulation 10 of the Merchant Shipping (Court of Survey) Regulations (Cap. 369 sub. leg. A) is amended by repealing “**Governor’s**” and substituting “**Chief Executive’s**”.

(2) Regulation 10 is amended by repealing “Governor” and substituting “Chief Executive”.

40. First Schedule amended

(1) The First Schedule is amended, in Form 1 –

(a) by repealing everything from “appeal” to “section 45 of the Merchant Shipping Ordinance (Cap. 281).” and substituting “appeal from the report of the surveyor appointed by the Chief Executive to survey the ship.”;

(b) by repealing “19”.

(2) The First Schedule is amended, in Form 2 –

(a) by repealing “Governor” and substituting “Chief Executive”;

(b) by repealing “19” where it twice appears;

(c) by repealing “at Victoria, Hong Kong.”.

(3) The First Schedule is amended, in Form 3 –

(a) by repealing “Governor” and substituting “Chief Executive”;

- (b) by repealing “19”.
- (4) The First Schedule is amended, in Form 4 –
 - (a) by repealing “Governor” and substituting “Chief Executive”;
 - (b) by repealing “19”.

41. “Governor” substituted by “Chief Executive”

The following provisions are amended by repealing “Governor” wherever it appears and substituting “Chief Executive” –

- (a) regulation 3;
- (b) regulation 4;
- (c) regulation 6;
- (d) regulation 8;
- (e) regulation 13;
- (f) regulation 14;
- (g) regulation 17.

Merchant Shipping (Safety) (Cargo Ship Safety Equipment Survey) Regulations

42. Interpretation

(1) Regulation 2 of the Merchant Shipping (Safety) (Cargo Ship Safety Equipment Survey) Regulations (Cap. 369 sub. leg. T) is amended, in the definition of “Certifying Authority”, by repealing “Secretary for Transport and Housing” and substituting “Secretary”.

(2) Regulation 2 is amended, in the definition of “Government surveyor”, by repealing “Secretary for Transport and Housing” and substituting “Secretary”.

(3) Regulation 2 is amended, in the definition of “surveyor”, by repealing everything after “means” and substituting “a Government surveyor or a surveyor appointed by a Certifying Authority;”.

Merchant Shipping (Safety) (Musters and Training) Regulations

43. Interpretation

(1) Regulation 2(1) of the Merchant Shipping (Safety) (Musters and Training) Regulations (Cap. 369 sub. leg. AI) is amended by repealing the definition of “international voyage”.

(2) Regulation 2(1) is amended, in the definition of “long international voyage”, by repealing “長程國際航行” and substituting “長途國際航程”.

(3) Regulation 2(1) is amended, in the definition of “short international voyage” –

(a) by repealing “短程國際航行” and substituting “短途國際航程”;

(b) in the Chinese text, by repealing “的國際航行” and substituting “的國際航程”;

(c) in the Chinese text, in paragraph (a), by repealing “船舶在航行中” and substituting “在航程中，船舶”;

(d) in the Chinese text, in paragraph (c), by repealing “回航航行” and substituting “回航航程”;

(e) in the Chinese text, by repealing “預定航行” and substituting “預定航程”;

(f) in the Chinese text, by repealing “其回航航行” and substituting “其回航航程”.

(4) Regulation 2(2) is amended, in the Chinese text, in Class I under the heading of “客船” –

(a) by repealing “程國際航行的航行” and substituting “途國際航程的航程”;

(b) by repealing “航行中包括長程國際航行” and substituting “航程中包括長途國際航程”.

(5) Regulation 2(2) is amended, in the Chinese text, in Class II under the heading of “客船” –

(a) by repealing “程國際航行的航行” and substituting “途國際航程的航程”;

(b) by repealing “航行中包括短程國際航行” and substituting “航程中包括短途國際航程”.

(6) Regulation 2(2) is amended, in the Chinese text, in Class II(A) under the heading of “客船”, by repealing “航行（國際航行” and substituting “航程（國際航程”.

(7) Regulation 2(2) is amended, in the Chinese text, in Class VII under the heading of “不屬客船的船舶”, by repealing “航行中包括長程國際航行” and substituting “航程中包括長途國際航程”.

(8) Regulation 2(2) is amended, in the Chinese text, in Class VII(T) under the heading of “不屬客船的船舶”, by repealing “航行中包括長程國際航行” and substituting “航程中包括長途國際航程”.

(9) Regulation 2(2) is amended, in the Chinese text, in Class VIII under the heading of “不屬客船的船舶” –

(a) by repealing “程國際航行的航行” and substituting “途國際航程的航程”;

(b) by repealing “航行中包括短程國際航行” and substituting “航程中包括短途國際航程”.

(10) Regulation 2(2) is amended, in the Chinese text, in Class VIII(T) under the heading of “不屬客船的船舶” –

(a) by repealing “程國際航行的航行” and substituting “途國際航程的航程”;

(b) by repealing “航行中包括短程國際航行” and substituting “航程中包括短途國際航程”.

(11) Regulation 2(2) is amended, in the Chinese text, in Class VIII(A) under the heading of “不屬客船的船舶”, by repealing “國際航行” and substituting “國際航程”.

(12) Regulation 2(2) is amended, in the Chinese text, in Class VIII(A)(T) under the heading of “不屬客船的船舶”, by repealing “國際航行” and substituting “國際航程”.

(13) Regulation 2(2) is amended, in the Chinese text, in Class IX under the heading of “不屬客船的船舶”, by repealing “程國際航行” and substituting “途國際航程”.

44. Practice of musters and drills

(1) Regulation 6(1) is amended, in the Chinese text, by repealing “航行” and substituting “航程”.

(2) Regulation 6(3)(c)(iii) is amended, in the Chinese text, by repealing “航行” and substituting “航程”.

(3) Regulation 6(4) is amended by repealing “Secretary for Transport and Housing” and substituting “Secretary”.

(4) Regulation 6(7)(b) is amended, in the Chinese text, by repealing “短程國際航行的船舶的航運模式” and substituting “短途國際航程的船舶的航運模式，”.

45. “國際航行” substituted by “國際航程”

The following provisions are amended, in the Chinese text, by repealing “國際航行” and substituting “國際航程” –

(a) regulation 4(1);

(b) regulation 7(1).

Merchant Shipping (Safety) (Radio Installations Survey) Regulations

46. Interpretation

(1) Regulation 2 of the Merchant Shipping (Safety) (Radio Installations Survey) Regulations (Cap. 369 sub. leg. AQ) is amended, in the definition of “Government surveyor”, by repealing “Secretary for Transport and Housing” and substituting “Secretary”.

(2) Regulation 2 is amended by repealing the definition of “international voyage”.

(3) Regulation 2 is amended, in the definition of “nominated surveyor”, by repealing “and a radio surveyor of the Department of Transport of the United Kingdom”.

Merchant Shipping (Safety) (Life-Saving Appliances) Regulation

47. Equivalent and exemptions

(1) Section 7(3) of the Merchant Shipping (Safety) (Life-Saving Appliances) Regulation (Cap. 369 sub. leg. AY) is amended, in the Chinese text, by repealing “國際航行” where it twice appears and substituting “國際航程”.

(2) Section 7(3) is amended, in the Chinese text, by repealing “該次航行” and substituting “該次航程”.

PART 4

CONSEQUENTIAL AMENDMENTS

Merchant Shipping (BCH Code) Regulations

48. Citation and interpretation

Regulation 1(2) of the Merchant Shipping (BCH Code) Regulations (Cap. 413 sub. leg. D) is amended, in the definition of “1974 SOLAS Convention”, by repealing “, 1974, as amended” and substituting “signed in London on 1

November 1974, or any convention that replaces that Convention or any successor convention, as amended from time to time and as applicable to Hong Kong”.

Merchant Shipping (IBC Code) Regulations

49. Citation and interpretation

Regulation 1(2) of the Merchant Shipping (IBC Code) Regulations (Cap. 413 sub. leg. E) is amended, in the definition of “1974 SOLAS Convention”, by repealing “, 1974, as amended” and substituting “signed in London on 1 November 1974, or any convention that replaces that Convention or any successor convention, as amended from time to time and as applicable to Hong Kong”.

Merchant Shipping (Local Vessels) Ordinance

50. Interpretation

Section 2 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) is amended by repealing the definition of “accepted convention certificate” and substituting –

““accepted convention certificate” (獲認可的公約證明書) means a certificate in the form prescribed by the International Convention for the Safety of Life at Sea signed in London on 1 November 1974, or any convention that replaces that Convention or any successor convention, as amended from time to time and as applicable to Hong Kong;”.

Merchant Shipping (Local Vessels) (Safety and Survey) Regulation

51. Interpretation

(1) Section 2 of the Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (Cap. 548 sub. leg. G) is amended, in the definition of “Load

Lines Convention”, by repealing everything after “means” and substituting “the International Convention on Load Lines signed in London on 5 April 1966, or any convention that replaces that Convention or any successor convention, as amended from time to time and as applicable to Hong Kong;”.

(2) Section 2 is amended, in the definition of “SOLAS Convention”, by repealing everything after “means” and substituting “the International Convention for the Safety of Life at Sea signed in London on 1 November 1974, or any convention that replaces that Convention or any successor convention, as amended from time to time and as applicable to Hong Kong;”.

Merchant Shipping (Security of Ships and Port Facilities) Ordinance

52. Interpretation

Section 3(1) of the Merchant Shipping (Security of Ships and Port Facilities) Ordinance (Cap. 582) is amended, in the definition of “the Convention”, by repealing “, 1974 (SOLAS)” and substituting “signed in London on 1 November 1974, or any convention that replaces that Convention or any successor convention, as amended from time to time and as applicable to Hong Kong”.

Explanatory Memorandum

The main purposes of this Bill are to amend the Merchant Shipping (Safety) Ordinance (Cap. 369) (“the Ordinance”) and some of its subsidiary legislation to –

- (a) enable the timely implementation of international agreements related to marine safety by referring directly to the provisions of those international agreements;
- (b) bring certain requirements into line with the relevant international agreements;
- (c) transfer certain statutory powers and functions;

- (d) adapt certain provisions to bring them into conformity with the Basic Law and with the status of Hong Kong as a Special Administrative Region of the People's Republic of China;
 - (e) remove or replace certain references to British enactments and certain obsolete references relating to the United Kingdom;
 - (f) remove discrepancies in meaning between the 2 texts of certain provisions; and
 - (g) make related, consequential and other minor amendments.
2. The following are the main provisions of the Bill.

Amendment to enable implementation of international agreements by referring directly to the provisions of international agreements

3. Clause 31 amends section 112B(i) of the Ordinance to enable regulations made under the Ordinance to refer directly to provisions of international agreements applicable to Hong Kong.

Amendments to transfer powers and functions

4. Clause 7 amends section 11(3)(b) of the Ordinance by transferring the power to specify ships to be surveyed from the former Governor to the Director of Marine.
5. Clause 30(1), (3) and (4) amends section 110(1), (3A) and (3B) of the Ordinance by transferring the power to make regulations as to fees on surveys from the former Governor in Council to the Financial Secretary.

6. Clause 32 amends section 113 of the Ordinance by transferring the power to give directions from the former Governor to the Secretary for Transport and Housing.

Amendments relating to adaptation of laws

7. Clauses 8, 25(1), 26, 29 and 36 adapt sections 12, 74(1), 75(7), 109 and 121 of the Ordinance by substituting reference to “the Governor” with reference to “the Chief Executive” in order to bring those provisions into conformity with the Basic Law and with the status of Hong Kong as a Special Administrative Region of the People’s Republic of China.

8. Clauses 39, 40(1)(a), (2)(a), (3)(a) and (4)(a) and 41 adapt regulations 3, 4, 6, 8, 10, 13, 14 and 17 of, and Forms 1, 2, 3 and 4 of the First Schedule to, the Merchant Shipping (Court of Survey) Regulations (Cap. 369 sub. leg. A) by substituting reference to “the Governor” with reference to “the Chief Executive” in order to bring those provisions into conformity with the Basic Law and with the status of Hong Kong as a Special Administrative Region of the People’s Republic of China.

9. Clauses 22, 23 and 28 adapt sections 69, 70 and 89(1) of the Ordinance by substituting reference to “the Crown” with reference to “the Government” in order to bring those provisions into conformity with the Basic Law and with the status of Hong Kong as a Special Administrative Region of the People’s Republic of China.

Amendments to remove or replace obsolete references to British enactments, etc.

10. Clause 3(2) repeals the definition of “Merchant Shipping Acts” in section 2(1) of the Ordinance. References to “Merchant Shipping Acts” in sections 6(1), 110(5), 114(3) and 115(1)(j)(i) of the Ordinance and regulation 2 (in the

definition of “surveyor”) of the Merchant Shipping (Safety) (Cargo Ship Safety Equipment Survey) Regulations (Cap. 369 sub. leg. T) are also removed (clauses 5, 30(8), 33, 34(1)(b) and 42(3)).

11. Clause 3(3) replaces the reference to “British measurement” by a reference to local legislation in the definition of “tons” and “tonnage” in section 2(1) of the Ordinance. Clauses 4(2) and 14(3) further remove the references to “Her Majesty in Council” in the definition of “Convention country” in sections 4(1) and 47(1) of the Ordinance.

12. References to “British ship” in sections 58(5), 61(4) and 68(1) of the Ordinance are removed by clauses 18, 19(1) and 21 and a reference to “British mercantile marine” in section 74(2)(b) of the Ordinance is also removed by clause 25(2).

Amendments to bring requirements into line with international agreements

13. Certain technical amendments are made to the following provisions of the Ordinance in order to bring the relevant requirements into line with the International Convention for the Safety of Life at Sea and the International Convention on Load Lines –

- (a) sections 2(1) and 47(1) (definitions of “international voyage” and “new ship”);
- (b) section 24(1) (availability of certificates);
- (c) section 31 (issue or endorsement of certificate at request of Director);
- (d) section 33 (certificates of Convention ships not registered in Hong Kong);
- (e) section 51 (issue or endorsement of load line certificate);
- (f) section 55(1) (availability of load line certificate and entry of particulars in official log-book); and

(g) section 57 (valid Convention certificates).

14. Clauses 43, 44, 45 and 47 make formal alteration to certain Chinese expressions in the Merchant Shipping (Safety) (Musters and Training) Regulations (Cap. 369 sub. leg. AI) and the Merchant Shipping (Safety) (Life-Saving Appliances) Regulation (Cap. 369 sub. leg. AY) to achieve consistency with the Ordinance.

Amendments to achieve consistency between the 2 texts

15. Clauses 19(2) and 20 amend sections 61 and 67 of the Ordinance to remove discrepancies in meaning between the Chinese text and English text of those provisions.

Consequential amendments

16. Clauses 48, 49, 50, 51 and 52 consequentially amend –

- (a) the definition of “1974 SOLAS Convention” in regulation 1(2) of the Merchant Shipping (BCH Code) Regulations (Cap. 413 sub. leg. D);
- (b) the definition of “1974 SOLAS Convention” in regulation 1(2) of the Merchant Shipping (IBC Code) Regulations (Cap. 413 sub. leg. E);
- (c) the definition of “accepted convention certificate” in section 2 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548);
- (d) the definitions of “Load Lines Convention” and “SOLAS Convention” in section 2 of the Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (Cap. 548 sub. leg. G);

- (e) the definition of “the Convention” in section 3(1) of the Merchant Shipping (Security of Ships and Port Facilities) Ordinance (Cap. 582).