

For discussion on
30 March 2009

Legislative Council Panel on Economic Development

Merchant Shipping (Safety) (Amendment) Bill 2009

INTRODUCTION

This paper seeks Members' views on the amendments proposed in the Merchant Shipping (Safety)(Amendment) Bill 2009 ("the Bill").

BACKGROUND

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). These marine safety-related conventions are implemented through the Merchant Shipping (Safety) Ordinance (Cap. 369) ("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 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 to the international standards and the corresponding amendments to local legislation.

MAJOR PROPOSED AMENDMENTS UNDER THE BILL AND THE KEY CONSIDERATIONS

Direct Reference Approach

4. We propose to amend the subsidiary legislation making power under section 112B of the Ordinance to enable the use of the Direct Reference Approach, i.e. to enable regulations made under the Ordinance to refer directly to the relevant provisions of the international agreements applicable to Hong Kong. These include SOLAS, Loadlines and Colregs.

5. This can obviate the need to amend the subsidiary legislation to reflect the latest technical requirements. The arrangement is agreeable to the shipping community as vessels engaged in international voyages are subject to the same safety requirements in other parts of the world and the proposed change will have no impact on their operating cost.

Adaptation of Outdated References

6. The Ordinance will be adapted by substituting references to “the Crown” and “the Governor” with references to “the Government” and “the Chief Executive” respectively in order to bring these provisions 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.

7. We would also like to take this opportunity to remove or replace certain references to British enactments and certain obsolete references relating to the United Kingdom. References to "Merchant Shipping Acts", "Her Majesty in Council", "British ship" and "masters of the British mercantile marine" in the Ordinance will be repealed.

Streamlining of Administration Procedures

8. To streamline administrative procedures, we propose to transfer certain powers vested with the Chief Executive and Chief Executive in Council to the Financial Secretary, Secretary for Transport and Housing and Director of Marine, depending on the nature of the concerned powers as follows -

- (a) the power to make regulations as to fees on surveys will be transferred to the Financial Secretary;
- (b) the power to give directions to Director of Marine and to any public officer with respect to the performance or exercise of their respective duties or powers under the Ordinance will be transferred to the Secretary for Transport and Housing; and
- (c) the power to specify ships to be surveyed will be transferred to the Director of Marine.

Others

9. There are a number of technical amendments to bring the relevant requirements in line with SOLAS and Loadlines, as well as some minor and consequential amendments.

10. We plan to introduce the Bill into the Legislative Council in May 2009.

CONSULTATION

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

ADVICE SOUGHT

12. Members are invited to give their views on the above proposals.

Transport and Housing Bureau

March 2009