

For discussion on
16 November 2009

Legislative Council Panel on Economic Development

Proposed Fee Regulation made under the Bunker Oil Pollution (Liability and Compensation) Bill

INTRODUCTION

This paper seeks Members' views on the fee which the Administration proposes to be charged by the Director of Marine (the Director) for the application of an Insurance Certificate by shipowners as proof of their compliance with the statutory requirement to cover liability for pollution damage caused by oil spills upon the passage of the Bunker Oil Pollution (Liability and Compensation) Bill (the Bill) into law. We also take the opportunity to inform Members how we intend to take this matter forward.

BACKGROUND

2. We introduced the Bill into the Legislative Council on 24 June 2009 to implement the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 (the Bunker Oil Convention) in Hong Kong. The resumption of the Second Reading debate and Third Reading of the Bill is now scheduled for 11 November 2009. The new legislation will provide a compensation regime for pollution damage caused by discharge or escape of bunker oil from non-tankers on par with that of most overseas jurisdictions. Owners of any ocean-going Hong Kong registered non-tankers with a gross tonnage of over 1,000 are required to take out the prescribed insurance or other financial security to cover liability for pollution damage caused by oil spills. They need to apply for an Insurance

Certificate either from the Director or from an authorized person (which would be classification societies with strong international network) as proof of their compliance.

3. Subject to the approval of the Legislative Council, our plan is to bring this new legislation into operation on 22 January 2010.

THE PROPOSAL

4. Under Clause 33 of the Bill, the Financial Secretary may by regulation prescribe the fee to be paid on an application to the Director for an Insurance Certificate to be issued by him. We propose to prescribe an application fee of \$535.

5. It is the Government's established policy that fees and charges should in general be set at levels adequate to recover the full cost of providing the services concerned. We review such fees and charges regularly and the latest costing review was conducted in early 2009 as a result of which we have initiated the legislative process to reduce a number of marine related fees payable by shipowners since 10 July 2009.

6. The proposed application fee of \$535 for an Insurance Certificate for non-tankers is the same as that prescribed for the issuance of a similar certificate for tankers under the Merchant Shipping (Liability and Compensation for Oil Pollution) Ordinance (Cap. 414). The application fees charged by other maritime administrations are at **Annex**.

WAY FORWARD

7. There is a need to bring the compensation regime under the Bunker Oil Convention into effect as soon as possible. The commencement of the new Ordinance will be contingent upon the Director's ability to issue Insurance Certificates, which will in turn depend on the availability of the statutory procedure for the application for such Certificates, of which the proposed fee payment arrangement will be an integral part of it. Thus we will synchronise the commencement of both the new Ordinance and the proposed regulation for the application fee. Subject to the Legislative Council's approval of the passage of the Bill into law, our plan is to gazette the Commencement Notice for the new Ordinance and the draft regulation at the same time on

27 November 2009 and have them tabled at the Legislative Council on 2 December 2009. Allowing for the usual duration for the Council's scrutiny, we aim at bringing both the new Ordinance and the regulation into operation on 22 January 2010.

CONSULTATION

8. The shipping industry has been consulted through the Shipping Consultative Committee which comprises representatives of the Hong Kong Shipowners' Association, shipping companies, the Hong Seamen's Union, the Merchant Navy Officers' Guild – Hong Kong, and a maritime firm. Except for two of them who suggested a lower level for the fee, the representatives raised no objection to our fee proposal.

ADVICE SOUGHT

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

*Transport and Housing Bureau
November 2009*

Fees Charged by other Marine Administrations for the Issuance of Insurance Certificates

Maritime Administrations	Fees Charged	
Liberia	US\$450	Around HK\$3,510
Luxemburg	EUR200	Around HK\$2,000
Cook Islands	US\$250	Around HK\$1,950
Panama	US\$250	Around HK\$1,950
Jamaica	US\$200	Around HK\$1,560
Gibraltar	£ 65	Around HK\$812
Singapore	SG\$60	Around HK\$328
United Kingdom	£ 16	Around HK\$200