

**立法會**  
***Legislative Council***

LC Paper No. LS50/15-16

**Paper for the House Committee Meeting  
on 29 April 2016**

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 22 April 2016**

**Tabling in LegCo** : Council meeting of 27 April 2016

**Amendment to be made by :** Council meeting of 25 May 2016 (or that of 15 June 2016 if extended by resolution)

**Merchant Shipping (Prevention of Oil Pollution)  
(Amendment) Regulation 2016** **(L.N. 47)**

At present, the International Convention for the Prevention of Pollution from Ships, 1973 (the Convention) adopted by the International Maritime Organization (IMO) is implemented in Hong Kong through the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413) and its subsidiary legislation (including the Merchant Shipping (Prevention of Oil Pollution) Regulations (Cap. 413A)) made by the Secretary for Transport and Housing (STH) under section 3 of Cap. 413. Under Cap. 413A, all Hong Kong oil tankers of 150 gross tonnage and above and any other Hong Kong ships of 400 gross tonnage or above are required to carry on board either the International Oil Pollution Prevention (IOPP) Certificate or the Hong Kong Oil Pollution Prevention (HKOPP) Certificate.

2. L.N. 47 is made under section 3 of Cap. 413 to amend Cap. 413A to incorporate the latest international requirements in view of certain changes made to Annex I to the Convention in relation to the construction, operation and equipment of certain ships and to provide for other amendments. The major new requirements are summarized below:

- (a) Part III of Cap. 413A is amended to include new requirements regulating certain oil tankers that are engaged in the transfer of oil cargo between oil tankers at sea (STS operation) and to provide for a notification mechanism for an STS operation;

- (b) Part IV of Cap. 413A is amended to impose requirements and further technical amendments relating to the construction of specific oil tankers and the design standard for certain equipment installed on the tankers. These requirements relate to, among others, double hull and double bottom for oil tankers of 600 tonnes deadweight and above for the carriage of heavy grade oil; double layers of pump-room bottoms on oil tankers of 5,000 tonnes deadweight and above constructed on or after 1 January 2007, and segregated ballast tanks for certain oil tankers; and
  - (c) certain carriage or use of heavy grade oil by Hong Kong ships is prohibited in the Antarctic Area except those engaged in securing the safety of a ship and in a search and rescue operation.
- 3. L.N. 47 also provides for the powers of the Director of Marine to appoint Government surveyors, recognize organizations for the purposes of surveying ships and issuing IOPP or HKOPP Certificates, and to request the Convention countries to survey ships and issue or endorse IOPP or HKOPP Certificates.
- 4. Members may refer to the LegCo Brief (File Ref: THB (T) PML 8/10/90/2) issued by Transport and Housing Bureau in April 2016 for further information.
- 5. According to paragraph 11 of the LegCo Brief, the Shipping Consultative Committee and the Local Vessels Advisory Committee were consulted and they supported the proposal.
- 6. As advised by the Clerk to the Panel on Economic Development, the Panel was consulted on the Administration's proposal to implement the latest requirements prescribed by IMO for preventing oil pollution from ships at the meeting on 16 December 2014. Members were generally supportive of the proposal and urged for its early implementation. Members also called on the Administration to well inform all affected parties, including the fishing trade, before the Administration's proposal comes into operation.
- 7. L.N. 47 comes into operation on 1 October 2016.

**Merchant Shipping (Local Vessels) (Amount of Insurance Cover) (Amendment) Notice 2016**

**(L.N. 48)**

8. Under sections 23C and 23D of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548), a local vessel<sup>1</sup>, such as any vessel used solely within the waters of Hong Kong, whether registered under the Merchant Shipping (Registration) Ordinance (Cap. 415) or in a place outside Hong Kong, is required to be insured against third party risks in respect of deaths or personal injuries up to a specified minimum amount of liability cover. The minimum amounts of insurance cover for different classes, types or descriptions of local vessels are specified in the Merchant Shipping (Local Vessels) (Amount of Insurance Cover) Notice (Cap. 548K).

9. L.N. 48 amends Cap. 548K to increase the statutory minimum amounts of liability cover for the compulsory third party risks insurance of local vessels as follows -

- (a) increase from \$5,000,000 to \$10,000,000 for certificated local vessels permitted to carry more than 12 passengers, except Class I primitive vessels<sup>2</sup> and Class IV vessels<sup>3</sup> not let for hire or reward; and
- (b) increase from \$1,000,000 to \$5,000,000 for certificated local vessels permitted to carry 12 or less than 12 passengers, Class I primitive vessels and Class IV vessels not let for hire or reward.

10. L.N. 48 provides for a transitional arrangement so that the current statutory minimum amounts of liability cover will continue to have effect until one of the following circumstances, whichever is the earliest, arises -

- (a) the expiry of the policy;
- (b) the expiry of one year beginning on 1 September 2016; or
- (c) the terms or conditions of the policy are altered in any way that would cause the policy to cease to be in compliance with section 23D of Cap. 548, even if the current statutory amounts of liability cover under Cap. 548K continued to apply.

---

<sup>1</sup> For details, please see section 2 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548).

<sup>2</sup> This is specified in Schedule 1 (Class and Type of Local Vessel) of the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548D) as one of the five types of Class I vessels.

<sup>3</sup> Under Schedule 1 of Cap. 548D, Class IV vessels are auxiliary powered yacht, cruiser and open cruiser.

11. According to the LegCo Brief (File Ref: PA/S 936/31/19/2(3)) issued by the Marine Department in April 2016, the statutory minimum amounts of liability cover are increased following a review by a working group, led by the Marine Department and comprising representatives from the trade of local vessels, the insurance industry, the Office of the Commissioner of Insurance and the Transport Department set up in late 2012 after the vessel collision incident near Lamma Island on 1 October 2012. The relevant amounts have not been adjusted since 2007.

12. According to paragraph 11 of the LegCo Brief, the Local Vessels Advisory Committee has been consulted on the proposed increase. Members of the Advisory Committee supported the proposal.

13. As advised by the Clerk to the Panel on Economic Development, the Panel was consulted on the Administration's proposal on 27 May 2015. Members were generally supportive of the proposal. In the course of deliberation, some members were concerned about the adequacy of the insurance coverage whilst some queried the rationale for the proposal as marine traffic accidents were relatively rare.

14. L.N. 48 comes into operation on 1 September 2016.

### **Concluding Observations**

15. No difficulties have been identified in the legal and drafting aspects of the above items of subsidiary legislation.

Prepared by

LO Wing-yee, Winnie  
Assistant Legal Adviser  
Legislative Council Secretariat  
28 April 2016