

LEGISLATIVE COUNCIL BRIEF

Merchant Shipping (Local Vessels) Ordinance
(Chapter 548)

MERCHANT SHIPPING (LOCAL VESSELS) (AMOUNT OF INSURANCE COVER) (AMENDMENT) NOTICE 2016

INTRODUCTION

The Director of Marine has made the Merchant Shipping (Local Vessels) (Amount of Insurance Cover) (Amendment) Notice 2016 (“the Amendment Notice”) at **Annex** under section 21 of the Merchant Shipping (Local Vessels) (Compulsory Third Party Risks Insurance) Regulation (Cap. 548 sub. leg. H) to increase the minimum amounts of liability cover for the compulsory third party risks insurance of local vessels.

JUSTIFICATIONS

The Existing Legislation

2. Under sections 23C and 23D in Part VA of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) (“the Ordinance”)¹, it is a mandatory requirement for a local vessel to which that Part applies to be insured against third party risks in respect of deaths or personal injuries up to a specified minimum amount of liability cover. The current minimum amounts of liability cover for different types of vessels are specified under section 3 of the Merchant Shipping (Local Vessels) (Amount of Insurance Cover) Notice (Cap. 548 sub.

¹ Pursuant to sections 49 and 50 of the Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548 sub. leg. F), a local vessel which is (i) registered in the Mainland of China or Macau; (ii) employed in trading to or from Hong Kong; and (iii) issued with any certificate by a government authority of Mainland of China or Macau permitting its trading to Hong Kong other than any accepted convention certificate, is required to have an insurance policy or an indemnity arrangement that covers the liability required to be covered under section 23D of the Ordinance.

leg. K). The minimum amounts of liability cover has not been adjusted since 2007.

Need for Adjustment

3. Subsequent to the vessel collision incident near Lamma Island on 1 October 2012 which caused substantial casualties, the Chief Executive in Council appointed an independent Commission of Inquiry to ascertain the cause of the incident and evaluate the marine safety of passenger vessels in Hong Kong. Meanwhile, the Transport and Housing Bureau and the Marine Department (“MD”) had also examined various measures with the trade to ensure marine safety, including, among other things, increasing third party risks insurance coverage for local vessels to provide better protection to passengers.

4. A working group, led by MD and comprising representatives from the trade of local vessels, the insurance industry, the Office of the Commissioner of Insurance and the Transport Department, was set up in late 2012 to review the statutory minimum amounts of liability cover for the compulsory third party risks insurance of local vessels. Having reviewed and considered factors including claims statistics, insurance companies’ indicated risk capacity, and the trade’s affordability, the working group agreed to increase the statutory minimum amounts of insurance cover to \$5 million and \$10 million respectively, depending on the types of vessels concerned.

5. For reason of risk management, the insurance industry has indicated that they can underwrite at most the liability levels specified in paragraph 4 above, lest the insurance premium will need to be substantially increased to an unacceptable level to local vessels.

LEGISLATIVE PROPOSAL

The Amendment Notice

6. The Amendment Notice seeks to increase the statutory minimum amounts of liability cover for the compulsory third party risks insurance of local vessels as set out below –

Types of vessels	Current minimum liability cover	New minimum liability cover
(a) Certificated local vessels permitted to carry more than 12 passengers,	\$5 million	\$10 million

Types of vessels	Current minimum liability cover	New minimum liability cover
except – (i) Class I primitive vessels; and (ii) Class IV vessels not let for hire or reward		
(b) Certificated local vessels permitted to carry 12 or less than 12 passengers	\$1 million	\$5 million
(c) Class I primitive vessels		
(d) Class IV vessels not let for hire or reward		

Commencement and Transitional Period

7. The new statutory minimum amount of liability cover will be effective on 1 September 2016. For local vessels with their policies of insurance made and in force immediately before 1 September 2016, the current statutory minimum amount of liability cover will continue to be applicable 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 the commencement date of the Amendment Notice; 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 the Ordinance, even if the former statutory amounts of liability cover applied.

The insurance policy of a local vessel against third party risks usually lasts no longer than one year. Hence, the above arrangement should be sufficient to allow smooth transition.

LEGISLATIVE TIMETABLE

8. The legislative timetable for the Amendment Notice is as follows —

Publication in the Gazette	22 April 2016
Tabling at LegCo for negative vetting	27 April 2016
Commencement Date	1 September 2016

IMPLICATIONS OF THE PROPOSAL

9. The Amendment Notice is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the current binding effect of the Ordinance and its subsidiary legislation.

10. On economic implications, while the proposed increase in the minimum amount of compulsory third party risks insurance liability cover would incur extra costs to the operators of local vessels, it could provide a better protection for the passengers. The amount of extra costs is also acceptable to the industry. The proposal has no financial, civil service, productivity, environmental, sustainability, gender or family implications.

PUBLIC CONSULTATION

11. On 5 May 2015, we consulted the Local Vessels Advisory Committee on the proposed increase in the statutory minimum amounts of liability cover for the compulsory third party risks insurance of local vessels. Members supported the proposal.

12. We consulted the Legislative Council Panel on Economic Development at its meeting on 27 May 2015 on the legislative amendment proposal. The Panel endorsed the proposal.

PUBLICITY

13. A press release will be issued on 22 April 2016. A spokesperson will be available to handle press enquiries.

ENQUIRIES

14. For enquiries on the brief, please contact Mr W K LEUNG, Senior Marine Officer / Dangerous Goods and Prosecution of MD (Tel: 2852 4538).

Marine Department
April 2016

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

Section 1

1

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

(Made by the Director of Marine under section 21 of the Merchant Shipping
(Local Vessels) (Compulsory Third Party Risks Insurance) Regulation
(Cap. 548 sub. leg. H))

1. **Commencement**
This Notice comes into operation on 1 September 2016.
2. **Merchant Shipping (Local Vessels) (Amount of Insurance
Cover) Notice amended**
The Merchant Shipping (Local Vessels) (Amount of Insurance
Cover) Notice (Cap. 548 sub. leg. K) is amended as set out in
sections 3, 4 and 5.
3. **Section 2 repealed (amount of insurance cover for first 6
months)**
Section 2—
Repeal the section.
4. **Section 3 repealed (amount of insurance cover from seventh
month onwards)**
Section 3—
Repeal the section.
5. **Sections 4 and 5 added**
At the end of the Notice—
Add

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

Section 5

2

“4. Amount of insurance cover

The following amounts are specified for the purposes of
section 23D(3)(c) of the Ordinance—

- (a) \$10,000,000 for a policy of insurance for a
certificated local vessel that is permitted to carry
more than 12 passengers under the conditions of its
operating licence, other than—
 - (i) a Class I primitive vessel; and
 - (ii) a Class IV vessel not let for hire or reward;
and
- (b) \$5,000,000 for a policy of insurance for—
 - (i) a certificated local vessel that is permitted to
carry 12 or less than 12 passengers under the
conditions of its operating licence;
 - (ii) a Class I primitive vessel; or
 - (iii) a Class IV vessel not let for hire or reward.

**5. Transitional provisions for Merchant Shipping (Local
Vessels) (Amount of Insurance Cover) (Amendment)
Notice 2016**

(1) In this section—

Amendment Notice (《修訂公告》) means the Merchant
Shipping (Local Vessels) (Amount of Insurance Cover)
(Amendment) Notice 2016;

commencement date (生效日期) means the date on which the
Amendment Notice comes into operation;

former section 3 (原有第 3 條) means section 3 in force
immediately before the commencement date.

- (2) The former section 3 continues to apply in relation to a local vessel as if the Amendment Notice had not been made if—
- (a) a policy of insurance in relation to the use of the vessel was in force immediately before the commencement date; and
 - (b) the amount of liability covered by it for any one accident or series of accidents arising out of the same event is not less than the amount specified in the former section 3 for the vessel.
- (3) Subsection (2) ceases to have effect in relation to a policy of insurance on the earliest of the following—
- (a) the expiry of the policy;
 - (b) the expiry of 1 year beginning on the commencement date;
 - (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 the Ordinance, even if the former section 3 continued to apply.”


Director of Marine

19 April 2016

Explanatory Note

Section 23C of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) requires users of local vessels to take out insurance. The Merchant Shipping (Local Vessels) (Amount of Insurance Cover) Notice (Cap. 548 sub. leg. K) specifies the minimum amounts of insurance cover for different classes, types or descriptions of local vessels. This Notice increases the statutory amounts.