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**1<sup>st</sup> draft: 19.7.99**

**2<sup>n</sup> draft: 7.8.99**

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**3<sup>rd</sup> draft: 19.8.99**

**4<sup>th</sup> draft: 21.9.99**

SHIPPING AND PORT CONTROL (AMENDMENT) BILL 1999

**COMMITTEE STAGE**

Amendments to be moved by the Secretary  
for Economic Services

Clause

Amendment Proposed

- 1 By deleting the clause and substituting -
- “1. Short title and Commencement**
- (1) This Ordinance may be cited as the Shipping and Port Control (Amendment) Ordinance 1999.
- (2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Economic Services by notice in the Gazette.”.
- 3(b) By adding “使用” after “<<”.
- 4 (a) In the heading, by adding “使用” after “<<”.
- (b) In subclause (a), by adding “使用” after “<<”.

(c) In subclause (b) (i), by adding “使用” after “<<”.

7(a) By adding -

“(iii) in the Chinese text, by repealing “吊桿” and substituting “吊桿” ;”.

New By adding -

### **“Consequential Amendments**

#### **Merchant Shipping (Local Vessels)**

#### **Ordinance**

### **17. Interpretation**

Section 2 of the Merchant Shipping (Local Vessels) Ordinance (43 of 1999) is amended -

(a) in the definition of “cargo”, by adding”, container, pallet, material and solid ballast” after “goods”;

(b) in the definition of “lifting appliance” -

(i) by adding “excavator, pile driver, pile extractor,” after “sheer legs,”;

(ii) by repealing “cargo handling” and

substituting “works”;

(c) in the definition of “lifting gear”, by repealing “cargo handling” and substituting “works”;

(d) by adding -

““material”( 物料 ) includes construction material, waste material and debris;”.

## **18. Part heading substituted**

The heading to Part VIII is repealed and substituted by “WORKS”.

## **19. Interpretation**

Section 37 is amended -

(a) in the definition of “machinery, equipment or appliance”,

by adding -

“(d) marine construction, means any machinery, equipment or appliance provided

or used for that purpose;”;

(b) in the definition of “person in charge of works” -

(i) in paragraph (a) -

(A) by repealing “on or to” and substituting “on,

to or by means of”;

(B) by repealing “or” at the end;

(ii) in paragraph (b), by adding “or” at the end;

(iii) by adding -

“(c) any other person having for

the time being in command

or charge of any works being

carried out on, to or by

means of a local

vessel.”;

(c) in the definition of “works” -

(i) in paragraph (b), by repealing “or”;

(ii) in paragraph (c), by repealing the full stop and substituting”; or”;

(iii) by adding -

“(d) marine construction.”;

(d) by adding -

““approved code” (《守則》) means a code of practice issued under section 45A;

“crane” (起重機) means any appliance equipped

with mechanical means of hoisting and

lowering a load and for transporting the load

while

suspended; and also all chains,  
ropes, swivels, or other tackle (down to and  
including the hook), used in the operation of the  
appliance; but does not include -

(a) a hoist block running on a fixed

rail or wire;

(b) a stacker or conveyer whereby a

load is moved by means of a belt

or platform; or

(c) an earth or mineral

moving or

excavating appliance not fitted

with a grab;

“marine construction” (海上建造工程) means

any construction or reclamation works,

including dredging, drilling, pipe laying, buoy

laying, cable laying and caisson construction, in

which local vessels are used;”.

## **20. Powers of Director and**

### **inspectors**

Section 40(3) is amended by repealing “level 3” and substituting “level 4”.

## **21. Restriction on carrying out**

### **repairs or breaking up of**

### **local vessels**

Section 41 is amended -

(a) in subsection (1), by repealing “subsection (2)” and substituting “subsections (1A) and (2)”;

(b) by adding -

“(1A) Subsection (1) does not apply to any local vessels of 50 metres or less in length unless the Director gives written notification to the person in charge of works that subsection (1) applies to that vessel.”;

(c) in subsection (3), by repealing “level 5” and substituting “level 6”.

## **22. Safe atmosphere**

Section 42(2) is amended by repealing “level 4” and substituting “level 5”.

## **23. Directions regarding repairs or breaking up of local vessels**

Section 43(2) is amended -

(a) by repealing “level 3” and substituting “level 4”;

- (b) by repealing “\$1,000” and substituting  
“\$2,000”.

**24. Prohibition against use of  
dangerous equipment, etc.**

Section 44(3) is amended -

- (a) in paragraph (a), by repealing “level 4” and substituting  
“level 5”;
- (b) in paragraph (b) -
  - (i) by repealing “level 3” and substituting “level  
4”;
  - (ii) by repealing “\$1,000” and substituting  
“\$2,000”.

**25. Prohibition against carrying  
out works in dangerous  
conditions**

Section 45(3) is amended -

- (a) in paragraph (a), by repealing “level 4” and substituting  
“level 5”;
- (b) in paragraph (b) -
  - (i) by repealing “level 3” and substituting “level  
4”;

- (ii) by repealing “\$1,000” and substituting “\$2,000”.

## **26. Section added**

The following is added -

### **“45A. Code of practice**

(1) For the purpose of providing practical guidance in respect of any one or more of the requirements of this Part or of regulations made under this Ordinance, the Director may issue such codes of practice (whether prepared by the Director or not) as the Director considers appropriate.

(2) The Director may amend or revoke a code of practice issued by him under subsection (1).

(3) Where the Director exercises a power under subsection (1) or (2), he shall as soon as may be reasonably practicable publish notice thereof in the Gazette and the notice shall be in such form as the Director considers appropriate.

(4) A failure by any person to observe a provision of an approved code

shall not of itself cause him to incur any criminal

liability, but where -

(a) in any criminal proceedings the defendant is

alleged to have committed an offence either -

(i) by reason of a contravention

of or a failure to comply

with, whether by act or

omission, this Ordinance or

regulations under this

Ordinance; or

(ii) by reason of a failure to

discharge or perform a duty

imposed by this Ordinance

or such regulations; and

(b) the matter to which the alleged contravention or

failure relates is one

to which, in the opinion of the  
court, an approved code relates,  
then subsection (5) shall apply as regards to the proceedings.

(5) In any criminal proceedings to which this subsection  
applies, the following, namely -

(a) compliance with a provision of an approved  
code found by the court to be relevant to a  
matter to which a contravention or failure  
alleged in the proceedings relates;

(b) a contravention of or failure to comply with,  
whether by act or omission, any such provision  
so found,

may be relied on by any party to the proceedings as tending to  
establish or to negative any liability which is in question in the  
proceedings.

(6) In any criminal proceedings, any document which  
purports to be a copy of a particular approved code shall, in the  
absence of evidence to

the contrary, be regarded by the court as being a true copy of that code.”.

## **27. Regulations - general**

Section 89(1) is amended -

(a) by repealing paragraph (zh) and substituting -

“(zh) the control of works, the control of salvaging of vessels, the control and use of lifting appliances and lifting gear, the safety and protection against accidents of persons employed in such works or operations, the provision of safe workplaces on local vessels, the operation, use and maintenance of hatches and hatch coverings on vessels in connection with works, and regulations made for the purpose of this

paragraph may empower the

Director to -

- (i) make exemptions from the application of the regulations where he is satisfied that the regulations have been substantially complied with or where compliance therewith is unnecessary having regard to the circumstances;
- (ii) approve any person to provide a safety training

course and issue

certificates to any person

who attends the course;”;

(b) by repealing paragraph (zn).”.