

LEGISLATIVE COUNCIL BRIEF

Merchant Shipping (Safety) Ordinance (Cap. 369)

MERCHANT SHIPPING (CARRIAGE OF CARGOES) (AMENDMENT) REGULATION 1999

INTRODUCTION

Under section 107 of the Merchant Shipping (Safety) Ordinance (Cap. 369), the Secretary for Economic Services (the Secretary) may make regulations for the safety of Hong Kong ships and persons on board these ships, and for giving effect to any provisions of an international agreement applicable to Hong Kong. In accordance with this, the Secretary has made the relevant regulation as set out in the Annex.

BACKGROUND AND ARGUMENT

2. Under the auspices of the International Maritime Organization (IMO), the International Convention for the Safety of Life at Sea 1974 ('the Convention') sets out international standards to promote safety of life and ships at sea. Chapter VI of the Convention deals with carriage of cargoes. In Hong Kong, this Chapter and its amendments are implemented through the Merchant Shipping (Safety) Ordinance, Cap. 369, and its subsidiary regulations.

3. The present amendment gives effect to recent changes to Chapter VI of the Convention. These changes enhance safety requirements in respect of carriage of cargoes and aim to minimize bulk cargo carriers losses as a result of excess stresses on the ship structures during loading and unloading. They include the following requirements -

- (a) The shipper should provide to the master of the ship in advance the appropriate information about the cargo to be carried, to enable the

necessary precautions for proper stowage and safe carriage to be put into effect.

- (b) Cargo units, including containers, should be loaded, stowed and secured in accordance with a Cargo Securing Manual approved by the Administration and drawn up to a standard at least equivalent to the guidelines developed by IMO.
- (c) For bulk cargoes, to prevent excessive stresses on the ship's structure, the master should be provided with the necessary technical information, special operational restrictions, and general loading and unloading instructions.
- (d) Before bulk cargoes are loaded or unloaded, the master and the terminal representative should agree on a plan to ensure that safety procedures are followed and the permissible stresses on the ship are not exceeded during loading and unloading.

THE REGULATION

4. The main provisions are -

- (a) Clause 2 requires, in the case of bulk cargoes, the shipper to provide the master in advance with additional information regarding the likelihood of shifting of cargo. For other cargoes the additional information under the Code of Safe Practice for Cargo Stowage and Securing adopted by IMO is required.
- (b) Clause 4 requires that the master should ensure cargo units, including containers, are loaded, stowed and secured throughout the voyage in accordance with the Cargo Securing Manual. For a ship with ro-ro cargo spaces, it also requires the master to ensure that securing of cargo units is completed before the ship leaves the berth.
- (c) Clause 5 requires, in respect of bulk cargoes -
 - (i) the terminal operator to appoint a representative responsible for the operations of loading and unloading from a ship.
 - (ii) the ship owner to furnish the master with the appropriate information including the necessary technical information,

special operational restrictions and general instructions for the loading, unloading and storage of cargoes.

- (iii) the master and terminal representative to agree on a plan to ensure that during loading and unloading, safety procedures are followed and the permissible stresses on the ship are not exceeded.
- (iv) the master to take corrective action against unsafe operations.

PUBLIC CONSULTATION

5. We have consulted the shipping industry and received no objection from them. The shipping industry was represented at IMO meetings at which the amendments to Chapter VI of the Convention were developed and agreed. We have also consulted the relevant cargo terminal operators and they all indicated no problem complying with the requirements.

HUMAN RIGHTS IMPLICATIONS

6. There are no human rights implications.

FINANCIAL AND STAFFING IMPLICATIONS

7. There are no financial and staffing implications.

ECONOMIC IMPLICATIONS

8. There are no economic implications.

ENVIRONMENTAL IMPLICATIONS

9. There are no environmental implications.

PUBLICITY

10. A press release will be issued today. A spokesman will be available to handle press enquiries. The Regulation will be published in the Gazette on xx February 1999. The Marine Department has issued shipping notices notifying the marine community of the amendments.

ENQUIRY

11. For enquiry on this brief, please contact Mr. B.B. Rao, Senior Surveyor of Ships at 2852 4606 or Mr. B.Y. Lee, Assistant Secretary for Economic Services at 2537 2844.

Economic Services Bureau
February 1999

**MERCHANT SHIPPING (SAFETY) (CARRIAGE OF
CARGOES) (AMENDMENT) REGULATION 1999**

(Made under section 107 of the Merchant
Shipping (Safety) Ordinance (Cap. 369))

1. Interpretation

Section 1(1) of the Merchant Shipping (Safety) (Carriage of Cargoes) Regulation (Cap. 369 sub. leg.) is amended by adding-

““Cargo Securing Manual” (《穩固貨物手冊》) means a manual which-

- (a) specifies requirements in respect of all relevant aspects of stowing and securing cargo on ships engaged in the carriage of cargoes other than solid and liquid bulk cargoes;
- (b) is approved by the Director or by an organization authorized by him for the purpose; and
- (c) is of a standard equivalent to or higher than the guidelines contained in the Annex to the MSC/Circular 745 (that is to say, the Circular of the Maritime Safety Committee of the IMO of that number described as “Guidelines for the preparation of the Cargo Securing Manual”);

“Code of Safe Practices for Cargo Stowage and Securing”

(《貨物積載和繫固安全實用規則》) means the code of the same name adopted by the IMO by resolution A. 714(17)-

- (a) amended by MSC/Circular 664 (that is to say, the Circular of the Maritime Safety Committee of the IMO

of that number described as “Code of Safe Practices for Cargo Stowage and Securing (CSS Code) and Amendments to the CSS Code”);

- (b) amended by MSC/Circular 691 (that is to say, the Circular of the Maritime Safety Committee of the IMO of that number described as “Code of Safe Practices for Cargo Stowage and Securing (CSS Code) and Amendments to the CSS Code”); and
- (c) as may be amended further from time to time;

“port authority” (港口當局) -

- (a) in relation to the port of Hong Kong, means the Director; and
- (b) in relation to a port outside Hong Kong, means the person having control of the operation of the port;

“ro-ro cargo spaces” (滾裝貨艙) means spaces, which are not normally subdivided in any way and extends to a substantial length or the entire length of the ship and in which goods (packaged or in bulk) which are in or on-

- (a) rail or road cars, vehicles (including road or rail tankers), trailers, containers, pallets, demountable tanks; or
- (b) similar storage units or other receptacles,

can be loaded and unloaded normally in a horizontal direction;

“terminal representative”, (碼頭代表) in relation to a terminal, wharf or other similar facility, means the person appointed under section 8A(1) or (2) to be the terminal representative in respect of the terminal, wharf or other similar facility;”.

2. Cargo information to be furnished before loading

Section 3(3) is amended -

- (a) in paragraph (a) by adding -
 - “(iiia) the likelihood of shifting of the cargo and, in the case of non-cohesive granular material, the angle of repose (being the maximum slope angle between a horizontal plane and the cone slope of the material); and”;
- (b) in paragraph (b) -
 - (i) in subparagraph (ii) by repealing “and” at the end;
 - (ii) in subparagraph (iii) by repealing the full stop and substituting”; and”;
 - (iii) by adding-
 - “(iv) the information required to be furnished under subchapter 1.9 of the Code of Safe Practices for Cargo Stowage and Securing.”.

3. Safe use of pesticides in ships

Section 5(4) is amended by repealing “海事安全委員會” and substituting “海上安全委員會”.

4. Stowage and securing of cargoes

Section 6 is amended -

- (a) by adding -

“(4A) The master of a ship shall ensure that cargo units, including vehicles and freight containers, are loaded, stowed and secured throughout the voyage in accordance with a Cargo Securing Manual.

(4B) In a ship with ro-ro cargo spaces, the master shall ensure that the securing of cargo units is completed, before the ship leaves its berth, in accordance with a Cargo Securing Manual.

(4C) The master of a ship carrying cargo, other than a ship carrying-

(a) only solid bulk cargo; or

(b) only liquid bulk cargo,

shall ensure that a Cargo Securing Manual is carried on the ship.”;

(b) in subsection (5) by repealing “or (4)” and substituting “,(4),(4A),(4B) or (4C)”.

5. Sections added

The following are added-

“8A. Duty of owner of terminal, etc., to appoint terminal representative

(1) Not later than 14 days after the commencement of this section, the owner of a terminal, wharf or other similar facility shall appoint, in writing, a person to be responsible for operations conducted by the terminal, wharf or other similar facility with regard to a ship when the ship is loading or unloading.

(2) If a terminal representative appointed under subsection (1) or this subsection becomes unwilling to act or unable to act, whether by reason of the termination of his appointment or for any other reason, the owner shall appoint another person to be the terminal representative so as to ensure that the position of terminal representative will not be left vacant.

(3) The owner shall, not later than 14 days after appointing a person as the terminal representative, furnish the port authority with the following particulars of the appointment-

- (a) the names and addresses of the owner and that person;
- (b) the date of the appointment; and
- (c) the consideration, if any, to be paid to that person.

(4) Any person who contravenes subsection (1), (2) or (3) commits an offence.

8B. Loading, unloading and storage of

bulk cargoes

(1) A master or owner of a ship shall not accept for carriage by the ship any bulk cargo unless the owner has, before the cargo is accepted, furnished the master with information in writing-

- (a) in accordance with subsection (2); and
- (b) in the Chinese language or the English language and, where the information is in the Chinese language, with a translation thereof in the English language.

(2) Information on or in relation to cargoes referred to in subsection (1) shall be-

- (a) the information required to be provided under regulations 30 and 31 of the Merchant Shipping

(safety)(Load Line) Regulations (Cap. 369 sub. leg.) by the owner of the ship to the master of the ship;

- (b) the ballasting and deballasting rates and capacities;
- (c) the maximum allowable load per unit surface area of the tank top plating;
- (d) the maximum allowable load per hold;
- (e) the general loading and unloading instructions with regard to the strength of the ship's structure including any limitations on the most adverse operating conditions during loading, unloading, ballasting operations and the voyage;
- (f) the most adverse operating conditions, if any, permitted by the Director; and
- (g) where strength calculations are required, maximum permissible forces and moments on the ship's hull during loading, unloading and the voyage.

(3) A master of a ship and the terminal representative of the terminal, wharf or other similar facility concerned shall-

- (a) before a bulk cargo is loaded or unloaded agree upon a plan in writing-
 - (i) ensuring that the permissible forces and moments on the ship are not exceeded during loading or unloading; and
 - (ii) which includes the sequence, quantity and rate of loading or unloading, taking into consideration the speed of loading or unloading, the number of pours and the

- ballasting or deballasting capability of the ship;
- (b) provide a copy of the plan (and any subsequent amendment thereto) to the port authority -
 - (i) as soon as is reasonably practicable; or
 - (ii) where the port authority has requested a copy, immediately upon the request being communicated;and
- (c) ensure that loading or unloading of the cargo is carried out -
 - (i) in accordance with the plan; and
 - (ii) in a manner that does not damage the ship's structure.
- (4) Where bulk cargo is being loaded or unloaded, a master of a ship shall -
 - (a) ensure that the loading or unloading, as the case may be, is continuously monitored by one or more of the ship's personnel;
 - (b) ensure that the ship's draught is checked regularly to confirm the tonnage figures supplied;
 - (c) record in writing each draught and tonnage check carried out under paragraph (b); and
 - (d) if he is of the opinion that any of the limits of the ship referred to in subsection (2) are exceeded or are likely to be exceeded if the loading or unloading continues -

- (i) immediately take corrective action (which may be or include the suspension of the loading or unloading operation); and
- (ii) if the corrective action results in the suspension of the loading or unloading operation, as soon as practicable furnish the port authority with particulars of the limits to which the corrective action relates and particulars of the corrective action taken.

(5) Any person who contravenes subsection (1), (3) or (4) commits an offence.

(6) In any proceedings for an offence under this section, it shall be a defence for the person charged to show that he took all reasonable steps to avoid commission of the offence.”.

Secretary for Economic Services

1999

Explanatory Note

This Regulation makes amendments to the Merchant Shipping (Safety)(Carriage of Cargoes) Regulation (Cap. 369 sub. leg.) to implement in part the amendments made in 1996 to Chapter VI of the International

Convention for the Safety of Life At Sea, 1974. The amendments impose requirements to improve safety during the loading and unloading of bulk cargoes and additional requirements relating to the securing of cargo on ships engaged in the carrying of cargo.