

LEGISLATIVE COUNCIL BRIEF

MERCHANT SHIPPING (SAFETY) (AMENDMENT) BILL 1999

INTRODUCTION

At the meeting of the Executive Council on 9 November 1999, the Council ADVISED and the Chief Executive ORDERED that the Merchant Shipping (Safety) (Amendment) Bill 1999, at *Annex*, should be introduced into the Legislative Council.

BACKGROUND AND ARGUMENT

2. The 1988 Protocol relating to the International Convention for the Safety of Life at Sea, 1974 ("SOLAS 1974") and the 1988 Protocol relating to the International Convention on Load Lines, 1966 ("Load Lines 1966") were adopted to introduce amendments to the SOLAS 1974 and Load Lines 1966 respectively. The amendments aim to harmonize the system of survey and certification of ships. Contracting parties to the Protocols have agreed to target February 2000 for the provisions to come into effect. As an Associate Member of the International Maritime Organization and a major maritime centre, Hong Kong is obliged to give effect to the amendments to the Conventions through domestic legislation. As the two Conventions, i.e. the SOLAS 1974 and the Load Lines 1966, are implemented in Hong Kong through the Merchant Shipping (Safety) Ordinance (Cap. 369) ("Cap. 369") and the subsidiary legislation made under it, it is necessary to amend Cap. 369 and its subsidiary legislation to implement in Hong Kong the amendments to the Conventions.

3. The amendments to the two Conventions entail the following changes:

(a) Validity period of certificates for cargo ships

4. At present, the maximum validity periods in respect of the following certificates are as follows: -

- (a) Cargo Ship Safety Construction Certificate – five years;
- (b) Cargo Ship Safety Equipment Certificate – two years;
- (c) Cargo Ship Safety Radio Certificate – one year;
- (d) International Load Line Certificate (1966) – five years.

5. In order to eliminate the inconsistencies relating to validity periods, it is decided that all these cargo ship certificates should be streamlined and standardized with a validity period of not more than five years. The harmonization of the survey requirements and validity periods will not only reduce the overall time a ship is out of service for the conduct of a survey, but also reduce the ship owner's administrative cost. This would also make the control of safety of ship by the Administration and the Classification Societies more effective.

(b) Combined cargo ship safety certificate

6. At present, three separate certificates (i.e. a cargo ship safety construction certificate, a cargo ship safety equipment certificate and a cargo ship safety radio certificate) will be issued for a cargo ship after the completion of an initial survey or a renewal survey. The 1988 Protocol relating to the SOLAS 1974 however further provides for a "combined" cargo ship safety certificate, as an alternative to the three certificates. This would make the certificate issuing process more efficient.

(c) Extension of validity periods of certificates

7. The 1988 Protocols also introduce amendments to provisions regarding extension of validity periods of certain certificates. Accordingly, provisions in domestic legislation regarding extension of validity periods of certificates need to be modified or revised.

8. In addition to the Bill, the Administration has prepared seven Amendment Regulations for the implementation of the amendments introduced by the 1988 Protocols. These Amendment Regulations will be made by the Secretary for Economic Services after the enactment of the legislation.

THE BILL

9. The main provisions of the Bill are clauses 6, 9, 10 and 19-
- (a) Clause 6 -the clause provides for a combined cargo ship safety certificate, as an alternative to a cargo ship safety construction certificate, cargo ship safety equipment certificate and cargo ship safety radio certificate;
 - (b) Clause 9 -the clause provides for the duration of certain certificates to be changed to five years (the duration of a cargo ship safety equipment certificate issued to a ship would be changed from the present two years to five years, and the duration of a cargo ship safety radio certificate would be changed from one year to five years);
 - (c) Clause 10 -the clause provides for extension of validity periods of certain certificates in respect of a ship; and
 - (d) Clause 19 –the clause provides for a savings provision in respect of certificates issued under Cap. 369 before the commencement of the Clause.

LEGISLATIVE TIMETABLE

10. The legislative timetable will be –

Publication in the Gazette	19 November 1999
First Reading and commencement of Second Reading debate	1 December 1999
Resumption of the Second Reading debate, committee stage and Third Reading	To be notified

PUBLIC CONSULTATION

11. We have consulted the shipping industry and they are in support of the amendments.

ECONOMIC IMPLICATIONS

12. There are no economic implications.

ENVIRONMENTAL IMPLICATIONS

13. There are no environmental implications.

HUMAN RIGHTS IMPLICATIONS

14. The Department of Justice advises that the Bill has no human rights implications.

BINDING EFFECT

15. The Bill will not affect the current binding effect of Cap. 369.

FINANCIAL AND STAFFING IMPLICATIONS

16. There are no financial and staffing implications for Government.

PUBLICITY

17. A press release will be issued on 19 November 1999 to tie in with the gazettal of the Bill.

ENQUIRY

18. For any enquiry on this brief, please contact Mr Raymond TANG, Assistant Director of Marine at 2852 4408 or Mr Peter KWOK, Assistant Secretary for Economic Services at 2537 2842.

Economic Services Bureau

Date : November 1999

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**MERCHANT SHIPPING (SAFETY)
(AMENDMENT) BILL 1999**

Annex

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Annex

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A BILL

To

Amend the Merchant Shipping (Safety) Ordinance.

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Merchant Shipping (Safety) (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.

2. Interpretation

Section 4(1) of the Merchant Shipping (Safety) Ordinance (Cap. 369) is amended -

(a) in the definition of “accepted Convention certificate”, by repealing “1978” and substituting “1988”;

(b) by adding -

““cargo ship safety certificate” (貨船安全證明書) means a cargo ship safety certificate issued under section 21A;”.

3. Issue for cargo ships of radio certificates and exemption certificates

Section 18(1), (2)(i) and (3) is amended by repealing “radiotelegraphy, radiotelephony, radio navigational aids and

direction-finders” and substituting “radio installations and shipborne navigational equipment”.

4. Renewal of radio certificates for small cargo ships

Section 19 is repealed.

5. Cargo ship safety construction certificates and exemption certificates

Section 21(1) (a) is amended by repealing “1978” and substituting “1988”.

6. Section added

The following is added -

“21A. Issue of cargo ship safety certificates

(1) If on -

- (a) receipt of a declaration of survey in respect of a ship to which section 11 applies and which is registered in Hong Kong; and
- (b) the application of the owner, agent or master of the ship,

the Director is satisfied that -

- (i) the ship complies with -
 - (A) the life-saving appliances regulations;
 - (B) the fire-fighting appliances regulations;
 - (C) the radio regulations;
 - (D) the navigational equipment regulations; and
 - (E) the cargo ship construction and survey regulations,

applicable to the ship and to such international voyages as it is to be engaged on; and

- (ii) the ship is properly provided with the lights, shapes, and means of making sound signals required by the collision regulations,

he may issue in respect of the ship a cargo ship safety certificate showing that the ship complies with such of the requirements of the Convention relating to the matters specified in paragraph (ii) and to the matters for which the regulations set out in paragraph (i) are made.

(2) Unless the context otherwise requires, any reference in this Ordinance to a cargo ship safety equipment certificate, a cargo ship safety radio certificate or a cargo ship safety construction certificate shall, where a cargo ship safety certificate has been issued in respect of a ship, be construed in relation to that ship as a reference to the cargo ship safety certificate, and the other provisions of this Ordinance shall apply accordingly.

(3) Nothing in this section shall derogate from the power to issue a certificate under section 17(1), 18(1) or 21(1).”.

7. Prohibition on proceeding to sea without appropriate certificates

Section 25(1) (b) (i), (ii) and (iii) is repealed and the following substituted -

“(i) (A) a cargo ship safety equipment certificate or a qualified cargo ship safety equipment certificate; and

(B) a cargo ship safety radio certificate or a qualified cargo ship safety radio certificate or an exemption

certificate stating that it is wholly exempt from the requirements of the Convention relating to radio installations and shipborne navigational equipment; and

(C) a cargo ship safety construction certificate or a qualified cargo ship safety construction certificate; or

(ii) a cargo ship safety certificate.”.

8. Prohibition on certain ships proceeding to sea unless relevant regulations complied with

The Chinese text of section 25A(1) is repealed and the following substituted -

“(1)本條適用於（並只適用於）符合以下各項說明的船舶 —

(a) 是在香港註冊的；

(b) 並非客船；

(c) 總噸位少於 500 噸；

(d) 屬根據《船舶及港口管制條例》（第 313 章）第 IV 部須領牌的船隻。”.

9. Duration of certificates

Section 26 is amended -

(a) in subsection (1), by repealing everything from “A” to “18(3)” and substituting “Subject to subsection (4) and section 29, a passenger certificate”;

(b) in subsection (2), by repealing everything from “A” to “years” and substituting “Subject to subsections (3A) and (4) and section 29, a general safety certificate shall remain in force for 1 year”;

(c) by repealing subsection (3) and substituting -

“(3) Subject to subsections (3A) and (4) and section 29, a cargo ship safety equipment certificate, a cargo ship safety radio certificate, a cargo ship safety construction certificate or a cargo ship safety certificate, shall remain in force for 5 years from the date of its issue or for such shorter period as may be specified in the certificate.

(3A) Where -

(a) a survey of a ship is completed within 3 months before the date of expiry of a certificate referred to in subsection (2) or (3) issued in respect of the ship, any corresponding certificate issued in consequence of the survey shall be valid from the date of completion of the survey to -

(i) in the case of a general safety certificate, a date within 1 year from the date of expiry of the first-mentioned certificate;

(ii) in the case of a certificate referred to in subsection (3), a

date within 5 years from the date of expiry of
the first-mentioned certificate,

specified in the corresponding certificate;

- (b) a survey of a ship is completed on a date earlier than 3 months before the date of expiry of a certificate referred to in subsection (2) or (3) issued in respect of the ship, any corresponding certificate issued in consequence of the survey shall be valid from the date of completion of the survey to -

(i) in the case of a general safety certificate, a date within 1 year from the date of completion of the survey;

(ii) in the case of a certificate referred to in subsection (3), a date within 5 years from the date of completion of the survey,

specified in the corresponding certificate;

(c) a survey of a ship is completed after the date of expiry of a certificate referred to in subsection (2) or (3) issued in respect of the ship, any corresponding certificate issued in consequence of the survey shall be valid from the date of completion of the survey to -

(i) in the case of a general safety certificate, a date within 1 year from the date of expiry of the first-mentioned certificate;

(ii) in the case of a certificate referred to in subsection (3), a date within 5 years from the date of expiry of the first-mentioned certificate,

specified in the corresponding certificate.”;

(d) in subsection (4), by repealing everything from “Notwithstanding” to “those subsections” and

substituting “No certificate referred to in subsection (1), (2) or (3)”;

(e) in subsection (5) -

(i) by repealing “須”;

(ii) by repealing”, other than one under section 18(3),”.

10. Section substituted

Section 29 is repealed and the following substituted -

“29. Extension of certificates

(1) The Director may, on the application of the owner, agent or master of a ship registered in Hong Kong in respect of which a certificate has been issued under this Part, grant an extension of the certificate for a period not exceeding 1 month from the date of expiry of the certificate.

(2) If on the date of expiry of a certificate issued under this Part in respect of a ship registered in Hong Kong, the ship is not in the port in which it is to be surveyed, the Director may, on the application of the owner, agent or master of the ship, grant an extension of the certificate -

(a) for the purpose of allowing the ship to complete its voyage to that port;
and

(b) for a period not exceeding 3 months from the date of expiry of the certificate.

(3) Where a survey of a ship has been completed but a certificate issued or to be issued under this Part in respect of the ship in consequence of the survey cannot be placed on board the ship before the date of expiry of an existing certificate to which the first-mentioned certificate corresponds, the Director may endorse on the existing

certificate the fact that such survey has been completed or cause such certificate to be so endorsed, and such certificate so endorsed shall be regarded as valid for such further period not exceeding 5 months from the date of its expiry as may be specified in the endorsement.

(4) Without prejudice to subsections (1), (2) and (3), if on -

(a) receipt of a declaration of survey in respect of a ship in respect of which a certificate issued under section 17 (1), 18(1), 21(1) or 21A(1) is in force; and

(b) the application of the owner, agent or master of the ship,

the Director is satisfied that it is proper to do so, the Director may grant an extension of the certificate for a period which, together with the period for which the certificate was issued and any period by which the certificate has been previously extended under this subsection, does not exceed 5 years.

(5) Where a survey of a ship is completed after the expiry of a certificate issued under this Part in respect of the ship, any corresponding certificate issued in consequence of the survey shall remain in force for -

(a) in the case of a general safety certificate, such period not exceeding 1 year from the date of completion of the survey;

(b) in the case of a certificate referred to in section 26(3), such period not exceeding 5 years from the date of completion of the survey,

as the Director may consider appropriate in the special circumstances of the case and as may be specified in the corresponding certificate.

(6) Where -

(a) an extension of a certificate issued in respect of a ship has been granted under subsection (1) or (2); and

(b) a survey of the ship is completed,

any corresponding certificate issued in consequence of the survey shall remain in force for -

(i) in the case of a general safety certificate, such period not exceeding 1 year from the date of completion of the survey;

(ii) in the case of a certificate referred to in section 26(3), such period not exceeding 5 years from the date of completion of the survey,

as the Director may consider appropriate in the special circumstances of the case and as may be specified in the corresponding certificate.”.

11. Certificates of Convention ships

not registered in Hong Kong

Section 33(2) (c) is amended by repealing “radiotelegraphy, radiotelephony and” and substituting “radio installations and shipborne”.

12. Production of documentary evidence of compliance with certificate requirements

The Chinese text of section 34A(1) is repealed and the following substituted -

“(1)本條適用於（並只適用於）符合以下各項說明的船舶 —

- (a) 並非在香港註冊的；
- (b) 並非持有獲認可的公約證明書；
- (c) 並非客船；
- (d) 並非根據《船舶及港口管制條例》（第 313 章）第 IV 部須領牌的船隻。”。

13. Issue of load line certificate

Section 51(1) and (3) is amended by repealing “(1966)” wherever it appears.

14. Ship not to proceed to sea without load line certificate

Section 54(1) is amended by repealing “(1966)”.

15. Valid Convention certificates

Section 57(3) is amended by repealing “(1966)”.

16. Provisions as to inspection

Section 61(2) is amended by repealing “(1966)”.

17. Radio regulations

Section 97 is amended -

- (a) in subsection (1), by repealing “a radio navigational aid” and substituting “shipborne navigational equipment”;
- (b) in subsection (2), by repealing “radiotelegraphy and radiotelephony” and substituting “radio installations”.

18. Load line regulations

Section 102(1) (j) is amended by repealing “(1966)”.

19. Savings

Any certificate issued under Part II of the principal Ordinance before the commencement of this section which is valid immediately before that commencement shall remain in force for the part of its validity period left to run as at that commencement as if the certificate had been issued under that Part as amended by this Ordinance and for that period of validity, and the provisions of the principal Ordinance as amended by this Ordinance shall apply accordingly.

Explanatory Memorandum

The object of this Bill is to -

- (a) amend certain provisions of the Merchant Shipping (Safety) Ordinance (Cap. 369) (“the principal Ordinance”) to give effect to the provisions of the 2 Protocols of 1988 relating to the International Convention for the Safety of Life at Sea, 1974 and the International Convention on Load Lines signed in 1966 (clauses 2 to 7, 9 to 11 and 13 to 18); and
- (b) remove an arguable discrepancy between the two texts of sections 25A and 34A (clauses 8 and 12).

2. A savings provision is also provided in respect of certificates issued under the principal Ordinance before the commencement of the Bill as enacted. (clause 19).