

C016-e

A BILL

To

Amend the Merchant Shipping (Liability and Compensation for Oil Pollution) Ordinance and certain regulations made under it to reflect changes in relevant international conventions and to make technical amendments.

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Merchant Shipping (Liability and Compensation for Oil Pollution) (Amendment) Ordinance 2003.

(2) Sections 2 to 5 shall come into operation on 1 November 2003.

Merchant Shipping (Liability and Compensation for Oil Pollution) Ordinance

2. Interpretation

Section 2(1) of the Merchant Shipping (Liability and Compensation for Oil Pollution) Ordinance (Cap. 414) is amended---

(a) in the definition of "Fund Convention"---

(i) by repealing "establishment" and substituting "Establishment";

(ii) by adding ", as modified by Resolution LEG. 2(82) adopted by the Legal Committee of the International Maritime Organization on 18 October 2000" after "1992";

(b) in the definition of "Liability Convention", by adding ", as modified by Resolution LEG. 1(82) adopted by the Legal Committee of the International Maritime Organization on 18 October 2000" after "1992";

(c) by repealing the definition "the 1992 Protocols".

3. Limitation of liability under section 6

(1) Section 9(2)(a) is amended by repealing "3 million" and substituting "4,510,000".

(2) Section 9(2)(b) is amended---

(a) by repealing "3 million" and substituting "4,510,000";

(b) by repealing "420" and substituting "631";

(c) by repealing "59.7 million" and substituting "89,770,000".

4. Contributions to the Fund

Section 23(9) is amended---

(a) in the definition of "燃油", by repealing "試驗協會" and substituting "及試驗學會";

(b) in the definition of "美國材料試驗協會", by repealing "試驗協會" and substituting "及試驗學會".

5. Overall limit on liability of Fund

Schedule 1 is amended---

(a) in paragraph 4(a) of Article 4 of the Fund Convention, by repealing "135 million" and substituting "203,000,000";

(b) in paragraph 4(b) of Article 4 of the Fund Convention, by repealing "135 million" and substituting "203,000,000";

(c) in paragraph 4(c) of Article 4 of the Fund Convention, by repealing "200 million" and substituting "300,740,000".

Merchant Shipping (Liability and Compensation for Oil Pollution) (Compulsory Insurance) Regulations

6. Regulations repealed

Regulations 2, 3 and 4 of the Merchant Shipping (Liability and Compensation for Oil Pollution) (Compulsory Insurance) Regulations (Cap. 414 sub. leg. A) are repealed.

Explanatory Memorandum

The Merchant Shipping (Liability and Compensation for Oil Pollution) Ordinance (Cap. 414) ("the Ordinance") and the regulations made under it were enacted to implement the International Convention on Civil Liability for Oil Pollution Damage, 1969 and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971. The 2 Conventions were subsequently amended by several protocols, one of them being the Protocol of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage, 1969 ("the 1992 Liability Protocol"). On 18 October 2000, the Legal Committee of the International Maritime Organization adopted 2 resolutions ("the 2 resolutions") which further amend the 2 Conventions for the purpose of increasing the amount of compensation payable for pollution caused by the discharge or escape of oil from ships. The main purpose of this Bill is to amend the Ordinance to implement the 2 resolutions.

2. The Bill also amends the regulations made under the Ordinance to ensure that the regulations are consistent with the changes introduced by the 1992 Liability Protocol.

3. Clause 1(2) provides that amendments to the Ordinance shall come into operation on 1 November 2003 i.e. the day on which the 2 resolutions will enter into force.

4. Clause 2(a)(i) is a technical amendment. The amendments in clause 2(a)(ii) and (b) relate to the definitions of "Fund Convention" and "Liability Convention". Clause 2(c) repeals the definition "the 1992 Protocols" as the term is not used in the Ordinance.

5. Clauses 3 and 5 increase the limits of compensation as provided by the 2 resolutions.

6. The Chinese translation of "American Society for Testing and Materials" is to be standardized as "美國材料及試驗學會" in the Ordinances of Hong Kong. Clause 4 adopts this standard translation.

7. Clause 6 repeals regulations 2, 3 and 4 of the Merchant Shipping (Liability and Compensation for Oil Pollution) (Compulsory Insurance) Regulations (Cap. 414 sub. leg. A). Regulation 3 providing a definition of the term "persistent oil" is repealed because the term "persistent oil" was deleted from section 15(1) of the Ordinance, as a result of the 1992 Liability Protocol. Regulation 4 is repealed as the recognition of certificates issued by certain specified countries is not consistent with the 1992 Liability Protocol. Consequential to the repeal of regulation 4, regulation 2 containing definitions used in regulation 4, is also repealed.