

立法會
Legislative Council

LC Paper No. LS94/02-03

**Paper for the House Committee Meeting
on 9 May 2003**

**Legal Service Division Report on
Merchant Shipping (Liability and Compensation for Oil Pollution)
(Amendment) Bill 2003**

I. SUMMARY

1. **Object of the Bill** To implement two resolutions passed by the International Maritime Organization on increased shipowners' liability and increased amount of compensation payable by the International Fund for Compensation for Oil Pollution Damage, 1992 (the Fund) for oil pollution.

2. **Comments**
 - (a) The Legal Committee of the International Maritime Organization has adopted two resolutions which are to increase by some 50% the limits of the shipowners' liability and the maximum amounts of compensation payable by the Fund for damages caused by oil pollution.

 - (b) Hong Kong has to amend the relevant Ordinance to give effect to the two resolutions.

3. **Public Consultation** The Shipping Consultative Committee has been consulted in February 2003 on the proposed amendments.

4. **Consultation with LegCo Panel** The policy aspects of the Bill were discussed at the meeting of the Panel on Economic Services on 24 February 2003.

5. **Conclusion**
 - (a) No difficulties relating to the legal and drafting aspects of the Bill have been identified.

 - (b) Subject to Members' views, the Second Reading debate of the Bill may be resumed.

II REPORT

Object of the Bill

To implement two resolutions passed by the International Maritime Organization on increased shipowners' liability and increased amount of compensation payable by the International Fund for Compensation for Oil Pollution Damage, 1992 (the Fund) for oil pollution.

LegCo Brief Reference

2. MA 90/18(2001) dated 17 April 2003 issued by the Economic Development and Labour Bureau.

Date of First Reading

3. 7 May 2003.

Comments

4. The Merchant Shipping (Liability and Compensation for Oil Pollution) Ordinance (Cap. 414) (the Ordinance) was enacted to implement the International Convention on Civil Liability for Oil Pollution Damage, 1992 (CLC) and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 (the Fund Convention).

5. The Ordinance provides that a shipowner has limited liability for the damage caused by the escape of oil from his ship. The relevant amount of liability is linked to the tonnage of his ship. The shipowner has to take out compulsory insurance against liability for oil pollution. If full compensation cannot be obtained under CLC, the Fund established by the Fund Convention is to compensate victims up to a maximum amount. Importers of oil and the person by whom the oil is received have to pay contributions to the Fund.

6. On 18 October 2000, the Legal Committee of the International Maritime Organization adopted two resolutions which amended the two Conventions. The purpose of the two resolutions is to increase by some 50% the limits of the shipowners' liability under the CLC and the maximum amounts of compensation payable under the Fund Convention. The limitation amount of a shipowner's liability is to be revised as follows -

	Current limitation amount	New limitation amount
For a ship up to 5,000 tons	3,000,000 units of account	4,510,000 units of account
For each additional ton	420 units of account	631 units of account
Maximum limitation amount	59,700,000 units of account	89,770,000 units of account

7. With regard to the maximum amount of compensation payable under the Fund, the existing limits of compensation range from 135,000,000 units of account to 200,000,000 units of account. The new amounts will range from 203,000,000 units of account to 300,740,000 units of account. A unit of account is the Special Drawing Right as defined by the International Monetary Fund. One unit of account is about HK\$10.7 and the exact amount varies daily.

8. The two resolutions will come into force on 1 November 2003 and will be binding on Hong Kong. The Bill therefore provides for commencement on that same date. The only exception is clause 6, which makes some separate technical amendments to the regulations and will come into operation on the date of gazettal after the passage of the Bill.

Public Consultation

9. According to the LegCo Brief, the legislative proposal has the support of the Shipping Consultative Committee. The Administration has also consulted the oil companies and they had no objection to the proposal.

Consultation with LegCo Panel

10. The Panel on Economic Services was consulted on 24 February 2003 on the proposed Bill. The Panel is generally in support of the proposal. In the course of deliberation, a member asked about the likely impact of the proposal on the operation cost of oil tankers, particularly the possible increase in insurance premium. In response, the Administration replied that the protection and indemnity clubs had indicated that a corresponding higher premium or contribution would not be imposed.

Conclusion

11. No difficulties relating to the legal and drafting aspects of the Bill have been identified. Subject to Members' views, the Second Reading debate of this Bill may be resumed.

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