

**立法會**  
**Legislative Council**

LC Paper No. LS12/05-06

**Paper for the House Committee Meeting  
on 25 November 2005**

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 18 November 2005**

**Date of tabling in LegCo** : 23 November 2005

**Amendment to be made by** : 21 December 2005 (or 11 January 2006 if extended by resolution)

**PART I SHIPPING FEES, ETC**

**Merchant Shipping (Registration) Ordinance (Cap. 415)  
Merchant Shipping (Registration) (Fees and Charges) (Amendment) Regulation  
2005 (L.N. 200)**

**Shipping and Port Control Ordinance (Cap. 313)  
Shipping and Port Control (Amendment) Regulation 2005 (L.N. 201)**

**Shipping and Port Control Regulations (Cap. 313 sub. leg. A)  
Shipping and Port Control Regulations (Amendment of Seventh Schedule) Notice  
2005 (L.N. 204)**

The first two pieces of subsidiary legislation make amendments in relation to tonnage and anchorage charges.

2. L.N. 200 amends the Merchant Shipping (Registration) (Fees and Charges) Regulation (Cap. 415 sub. leg. A) to introduce a 6-month reduction of the annual tonnage charge payable for every continuous registration of a ship under the Hong Kong Shipping Register for 2 years provided that the ship has not been detained during the period.

3. L.N. 201 amends the Shipping and Port Control Regulations (Cap. 313 sub. leg. A) to introduce a new fee structure for anchorage dues and to reduce the port facilities and light dues.

4. L.N. 204 amends the Seventh Schedule to the Shipping and Port Control Regulations (Cap. 313 sub. leg. A) to make minor adjustment to the boundaries of the Western Dangerous Goods Anchorage and to specify 5 service anchorages at Kellet Bank and Sham Shui Kok respectively.

5. The Panel on Economic Services was consulted on the relevant proposals on 25 July 2005. Members in general supported the proposals but suggested that more should be done to enhance the competitiveness of the Hong Kong port.

6. Members may wish to note that a 6-month “waiver” of annual tonnage charge to Hong Kong registered ships was initially proposed by the Administration at the Panel meeting (ref: LegCo Paper CB(1)2096/04-05(02)) whilst L.N. 200 introduces a 6-month “reduction” of annual tonnage charge. The Legal Service Division has written to the Administration to clarify the effect of the amendments as made in L.N. 200 (Appendix - letter and reply).

7. Members may refer to the LegCo Brief (ref: MA 60/9)) issued by the Economic Development and Labour Bureau on 16 November 2005 for background information.

8. The amendment regulations and notice shall come into operation on 1 February 2006.

## **PART II    MERCHANT SHIPPING - LIMITATION OF SHIPOWNERS LIABILITY**

### **Merchant Shipping (Limitation of Shipowners Liability) Ordinance (Cap. 434) Merchant Shipping (Limitation of Shipowners Liability) (Rate of Interest) (Amendment) Order 2005    (L.N. 203)**

9. Under paragraph 1 of Article 11 of the Convention on Limitation of Liability for Maritime Claims, 1976 as applied by the Merchant Shipping (Limitation of Shipowners Liability) Ordinance (Cap. 434), shipowners and salvors may limit their liabilities for maritime claims by constituting limitation funds. Such limitation funds shall comprise the amounts set out in the Convention together with interest thereon.

10. Under section 19 of Cap. 434, the Monetary Authority may from time to time prescribe the rate of interest to be applied for the purposes of paragraph 1 of Article 11 of the Convention. This Order prescribes the new rate of interest of 6.55% applicable on or after 18 November 2005. The existing interest rate of 5.16% was prescribed in 2002.

11. Members may refer to the LegCo Brief issued by the Financial Services

and the Treasury Bureau on 18 November 2005 for background information. The Order has not been referred to any LegCo Panel.

### **PART III SPECIFICATION OF PUBLIC OFFICE**

#### **Interpretation and General Clauses Ordinance (Cap. 1) Specification of Public Office (L.N. 202)**

12. This Notice specifies the office of the Chief Secretary for Administration for 4 pieces of ecclesiastical legislation, namely, the Church of England Trust Ordinance (Cap. 1014), the Hong Kong Chinese Christian Churches Union Incorporation Ordinance (Cap. 1025), the Chinese Rhenish Church, Hong Kong Synod, Incorporation Ordinance (Cap. 1060) and the Hong Kong Baptist Church Incorporation Ordinance (Cap. 1078), to enable him to delegate to other public officers the powers and duties conferred and imposed by these ordinances.

13. Members may refer to the LegCo Brief (ref: CSO/ADM/ CR 4/3231/91(05)) issued by the Administration Wing of the Chief Secretary for Administration's Office on 16 November 2005 for background information. The Notice has not been referred to any LegCo Panel.

14. The Notice shall come into operation on 16 January 2006.

Encl

Prepared by

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Legislative Council Secretariat  
23 November 2005

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23 November 2005

Ms Kitty Cheng  
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Legislative Council Secretariat

**By Fax: 2877 5029 Only**

Dear Ms Cheng

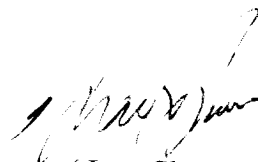
**Merchant Shipping (Registration) (Fees and Charges)  
(Amendment) Regulation 2005—L.N. 200 of 2005**

Thank you for your letter dated 21 November 2005.

The policy intention is to give concession to shipowners of Hong Kong registered ships (HKRS) by requiring them to pay only half of the existing annual tonnage charge (ATC) if the specified conditions are fulfilled. In terms of the intention of giving concession to qualified shipowners, there is no difference between the term used in briefing the LegCo Panel on Economic Services and that used in L.N. 200 of 2005.

Turning to the operational level of the proposed scheme, the ATC is payable on the anniversary of the date of registration of a HKRS, i.e. at the beginning of a year of registration. It is possible that, after half of the existing ATC payment has been made on reaching the anniversary, the Director of Marine subsequently found that one or more of the specified conditions were not fulfilled by the HKRS. For instance, the HKRS has been detained during the relevant 2 year period. In the circumstances, the relevant shipowner should not be entitled to the statutory benefit at all and should be liable for paying the other half of the ATC. The Administration therefore chooses to use “reduction” rather than “waiver” in the amendment Regulation, as “waiver” denotes a total abandonment or relinquishment of the legal right or remedy which the law gives to it under section 90(4) of the Merchant Shipping (Registration) Ordinance (Cap. 415).

Yours sincerely



( Ivan Shuen )

for Secretary for Economic Development and Labour

LS/S/7/05-06  
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By Fax (2523 0030) and By Post

21 November 2005

Dear Mr Shuen,

**Merchant Shipping (Registration) (Fees and Charges)  
(Amendment) Regulation 2005 - L.N. 200 of 2005**

I refer to our telephone conversation this morning.

L.N. 200 amends the Merchant Shipping (Registration) (Fees and Charges) Regulation (Cap. 415 sub. leg. A) to introduce a 6-month reduction of the annual tonnage charge payable for every continuous registration of a ship under the Hong Kong Shipping Register for 2 years provided that the ship has not been detained during the period.

You may recall that when the LegCo Panel on Economic Services was consulted on the relevant proposal on 2 July 2005, the Administration proposed a 6-month “waiver” of annual tonnage charge to Hong Kong registered ships (ref: LegCo Paper CB(1)2096/04-05(02), at para. 14) whilst L.N. 200 now introduces a 6-month “reduction” of annual tonnage charge. Please kindly advise the effect of L.N. 200 and whether, in practice and in substance, there is any difference between such “wavier” and “reduction”.

I look forward to your reply in bilingual form on or before 23 November 2005.

Yours sincerely,

Kitty Cheng  
Assistant Legal Adviser

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