

LEGISLATIVE COUNCIL BRIEF

Merchant Shipping (Limitation of Shipowners Liability) Ordinance

Merchant Shipping (Limitation of Shipowners Liability) (Amendment) Ordinance 2005 (Commencement) Notice

INTRODUCTION

This paper informs Members that the Merchant Shipping (Limitation of Shipowners Liability) (Amendment) Ordinance 2005 (Commencement) Notice (at **Annex**) (“the Commencement Notice”) will be published in the Gazette on 30 April 2015.

BACKGROUND

2. The Merchant Shipping (Limitation of Shipowners Liability) (Amendment) Ordinance 2005 (“the Amendment Ordinance”) was enacted by the Legislative Council and gazetted on 18 March 2005. The Amendment Ordinance has come into operation except for a number of provisions specified in Section 1(3) of the Amendment Ordinance which shall come into operation on a day to be appointed by the Secretary for Transport and Housing¹ (“STH”). Those provisions are yet to commence because they seek to give effect to the increased liability limits for shipowners adopted by the International Maritime Organization (“IMO”) in the “Protocol of 1996 to Amend the Convention on Limitation of Liability for Maritime Claims, 1976” (“the Protocol”) and the Protocol has not yet been extended to the Hong Kong Special Administrative Region (“HKSAR”).

¹ Clause 1(3) of the Amendment Ordinance reads “ Sections 2(b), 11, 12, 14(a) and (b)(i) and 20 shall come into operation on a day to be appointed by the Secretary for Economic Development and Labour by notice published in the Gazette.” For the transfer of secretaries’ functions effective on 1 July 2007 due to the Government’s reorganization, paragraph (4)(am) of the Resolution of the Legislative Council of 2007/6/14 (LN 130/2007) provides that the functions exercisable by the Secretary for Economic Development and Labour (“SEDL”) by virtue of the Amendment Ordinance is to be transferred to STH and, for the purpose of giving full effect of such transfer, “SEDL” in section 1(3) of the Amendment Ordinance is repealed and substituted with “STH”.

3. The Central People's Government has recently completed procedures to notify the IMO of the HKSAR's accession to the Protocol. The Protocol will enter into force for the HKSAR on 3 May 2015. We have accordingly specified 3 May 2015 as the date for the commencement of the relevant provisions of the Amendment Ordinance in the Commencement Notice. After the commencement of those provisions on 3 May 2015, shipowners will be immediately subject to higher liability limits for claims in respect of loss of life or personal injury and other claims (such as claims relating to damage to other ships, property or harbour works) arising from incidents in sea voyages that are in line with the international requirements stipulated in the Protocol. This can provide better protection for ship passengers, cargo owners and other parties affected by sea incidents.

THE COMMENCEMENT NOTICE

4. Under section 1(3) of the Amendment Ordinance, STH has appointed 3 May 2015 as the day on which sections 2(b), 11, 12, 14(a) and (b)(i) and 20 of the Amendment Ordinance come into operation via the Commencement Notice. The Commencement Notice will be published in the Gazette on 30 April 2015.

ENQUIRIES

5. Any enquiries on this brief can be addressed to Mr. James Lam, Assistant Secretary for Transport and Housing (Transport) (Tel: 3509 8261).

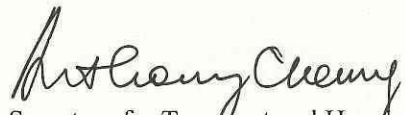
**Transport and Housing Bureau
April 2015**

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2005 (Commencement) Notice

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**Merchant Shipping (Limitation of Shipowners
Liability) (Amendment) Ordinance 2005
(Commencement) Notice**

Under section 1(3) of the Merchant Shipping (Limitation of Shipowners Liability) (Amendment) Ordinance 2005 (1 of 2005), I appoint 3 May 2015 as the day on which sections 2(b), 11, 12, 14(a) and (b)(i) and 20 of the Ordinance come into operation.


Secretary for Transport and Housing

22nd April, 2015