

LEGISLATIVE COUNCIL BRIEF

Merchant Shipping (Limitation of Shipowners Liability) Ordinance (Cap. 434)

Legislative Amendments for the Implementation of the Convention on Limitation of Liability for Maritime Claims

INTRODUCTION

The International Maritime Organization (“IMO”) increased the liability limits set out in the Convention on Limitation of Liability for Maritime Claims (“the Convention”), which came into force in 2015. We need to update Schedule 2 to the Merchant Shipping (Limitation of Shipowners Liability) Ordinance (Cap. 434) (“the Ordinance”) to incorporate the latest liability limits into our local legislation.

2. At the meeting of the Executive Council on 12 September 2017, the Council ADVISED and the Chief Executive ORDERED that, under Section 28 of the Ordinance, the Merchant Shipping (Limitation of Shipowners Liability) Ordinance (Amendment of Schedule 2) Order 2017 (“the Amendment Order”), at **Annex**, should be made to update the liability limits for maritime incidents in our local legislation.

JUSTIFICATIONS

3. IMO adopted the Convention in 1976 to limit shipowners’ financial liability for maritime incidents involving primarily personal claims (such as injury or loss of life) and property damage claims (such as damage to other ships, property or harbour works). The unit of measurement for monetary liability is Special Drawing Right (“SDR”), which is an interest-bearing international reserve asset created by the International Monetary Fund (“IMF”) in 1969. SDR is based on a basket of international currencies comprising US dollar, Japanese yen, Euro, British pound sterling and Chinese renminbi¹.

¹ IMF publishes the daily conversion rates for SDR. For example, as of 2 October 2017, SDR 1 is approximately equivalent to US\$ 1.41.

4. In Hong Kong, the liability limits are set out in Schedule 2 to the Ordinance. Our current legislation reflects the liability limits set out in the 1996 Protocol of the Convention. Taking into account factors such as inflation and claims made, a new set of liability limits representing an increase by 51% was subsequently adopted and came into force globally in 2015.

LEGISLATIVE PROPOSALS

5. We need to amend Schedule 2 to the Ordinance to update these limits, which will apply to claims of marine incidents occurred after the commencement of the Amendment Order on 4 December 2017.

6. The proposed liability limits under the Convention, which are linked to the size of a ship, are as follows —

Liability limit for claims for loss of life or personal injury (in SDR)		Liability limit for claims for property damage claims (in SDR)	
Current	Proposed	Current	Proposed
<i>For ships not exceeding 2 000 tonnes</i>			
2 million	3.02 million	1 million	1.51 million
<i>For each tonne from 2 001 to 30 000 tonnes</i>			
800	1 208	400	604
<i>For each tonne from 30 001 to 70 000 tonnes</i>			
600	906	300	453
<i>For each tonne in excess of 70 000 tonnes</i>			
400	604	200	302

7. Given that the insurance premium for ships is mainly determined by their quality, track record and likely risks, the proposed increase in liability limits should not have significant impact on the insurance and operating costs borne by ships.

THE AMENDMENT ORDER

The Merchant Shipping (Limitation of Shipowners Liability) Ordinance (Amendment of Schedule 2) Order 2017

8. The Amendment Order will amend Article 6 of Schedule 2 to the Ordinance to incorporate the latest liability limits for maritime incidents into our local legislation.

LEGISLATIVE TIMETABLE

9. The Amendment Order will be published in the Gazette on 6 October 2017 and introduced into the Legislative Council on 11 October 2017.

IMPLICATIONS OF THE PROPOSAL

10. The proposal is in conformity with the Basic Law, including provisions concerning human rights. It will not affect the current binding effect of the Ordinance. The proposal has no financial, civil service, economic, productivity, competition, environmental, sustainability, gender or family implications.

PUBLIC CONSULTATION

11. We consulted the Legislative Council Panel on Economic Development, as well as the Shipping Consultative Committee, Port Operations Committee and the Local Vessels Consultative Committee of the Marine Department. They supported the proposal.

PUBLICITY

12. A press release will be issued on 6 October 2017. A spokesman will be available to answer enquiries.

ENQUIRIES

13. Any enquiries on this brief can be addressed to Ms Louisa Yan, Principal Assistant Secretary for Transport and Housing (Transport) (Tel: 3509 8162), or Mr Yu Ying-wai, Assistant Director (Multi-lateral Policy), Marine Department (Tel: 2852 4408).

Transport and Housing Bureau
October 2017

**Merchant Shipping (Limitation of Shipowners
Liability) Ordinance (Amendment of Schedule 2) Order
2017**

(Made by the Chief Executive in Council under section 28 of the Merchant
Shipping (Limitation of Shipowners Liability) Ordinance (Cap. 434))

1. Commencement

This Order comes into operation on 4 December 2017.

**2. Merchant Shipping (Limitation of Shipowners Liability)
Ordinance amended**

The Merchant Shipping (Limitation of Shipowners Liability)
Ordinance (Cap. 434) is amended as set out in section 3.

**3. Schedule 2 amended (Convention on Limitation of Liability for
Maritime Claims, 1976)**

(1) Schedule 2, Article 6, paragraph 1(a)(i)—

Repeal

“2 million”

Substitute

“3.02 million”.

(2) Schedule 2, Article 6, paragraph 1(a)(ii)—

Repeal

“800”

Substitute

“1 208”.

(3) Schedule 2, Article 6, paragraph 1(a)(ii)—

Repeal

“600”

Substitute

“906”.

(4) Schedule 2, Article 6, paragraph 1(a)(ii)—

Repeal

“400”

Substitute

“604”.

(5) Schedule 2, Article 6, paragraph 1(b)(i)—

Repeal

“1”

Substitute

“1.51”.

(6) Schedule 2, Article 6, paragraph 1(b)(ii)—

Repeal

“400”

Substitute

“604”.

(7) Schedule 2, Article 6, paragraph 1(b)(ii)—

Repeal

“300”

Substitute

“453”.

(8) Schedule 2, Article 6, paragraph 1(b)(ii)—

Repeal

“200”

Substitute

“302”.



Clerk to the Executive Council

COUNCIL CHAMBER

12th September, 2017

Explanatory Note

The Convention on Limitation of Liability for Maritime Claims, 1976 (*Convention*) that limits the liability of shipowners and salvors for claims arising from maritime incidents applies to Hong Kong. The Convention was amended in 1996 and Schedule 2 to the Merchant Shipping (Limitation of Shipowners Liability) Ordinance (Cap. 434) (*Schedule*) sets out the Convention as amended.

2. This Order amends the Schedule to reflect the latest limits adopted by the International Maritime Organization by resolution LEG.5(99) concerning the liability for claims for loss of life or personal injury and other claims such as claims for property damage.