

## LEGISLATIVE COUNCIL BRIEF

### Implementation of the Latest Requirements under the International Maritime Solid Bulk Cargoes Code of the International Maritime Organization

#### PURPOSE

To implement the latest requirements under the International Maritime Solid Bulk Cargoes Code (“IMSBC Code”) of the International Maritime Organization (“IMO”), the Secretary for Transport and Housing has made the Merchant Shipping (Safety) (IMSBC Code) (Amendment) Regulation 2019 (“the Amendment Regulation”), at **Annex**, under sections 107 and 112B of the Merchant Shipping (Safety) Ordinance (Cap. 369) (“the Ordinance”).

#### BACKGROUND

2. The carriage of solid bulk cargoes (i.e. cargoes in loose form without packaging) may pose risks to ships due to their special physical and chemical characteristics when carried in bulk. Improper stowage during shipment may cause structural damage to the carrier vessel, loss of stability or uncontrolled chemical reactions. In light of this, the IMO regulates the carriage of solid bulk cargoes vide the IMSBC Code to minimise these risks. The requirements under the IMSBC Code are made mandatory under the International Convention for the Safety of Life at Sea (“SOLAS”)<sup>1</sup> in 2011, and the IMO updates the

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<sup>1</sup> Different chapters under the Annex to SOLAS cover different aspects of maritime safety, as follows:

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| Chapter I:    | General Provisions;  |
| Chapter II-1: | Construction – structure, subdivision and stability, machinery and electrical installations; |
| Chapter II-2: | Construction – fire protection, fire detection and fire extinction;                          |
| Chapter III:  | Life-saving appliances and arrangements;   |
| Chapter IV:   | Radiocommunications;   |
| Chapter V:    | Safety of navigation;  |
| Chapter VI:   | Carriage of cargoes and oil fuels;   |
| Chapter VII:  | Carriage of dangerous goods;   |
| Chapter VIII: | Nuclear ships;   |
| Chapter IX:   | Management for the safe operation of ships;  |
| Chapter X:    | Safety measures for high-speed craft;  |
| Chapter XI-1: | Special measures to enhance maritime safety;   |
| Chapter XI-2: | Special measures to enhance maritime security;   |
| Chapter XII:  | Additional safety measures for bulk carriers;  |

requirements therein from time to time.

3. In Hong Kong, the requirements of the IMSBC Code are implemented through the Merchant Shipping (Safety) (IMSBC Code) Regulation (Cap. 369AZ) (“the Regulation”), which prescribes the procedures for the shipment of solid bulk cargoes and mandates precautions for the loading, stowage, carriage and discharge of solid bulk cargoes other than grain<sup>2</sup>. The Regulation applies to ocean-going vessels (“OGVs”) registered in Hong Kong wherever they may be, and non-Hong Kong-registered OGVs while they are within the waters of Hong Kong. Given that the IMO’s requirements governing the procedures for the shipment of solid bulk cargoes are technical in nature, we have adopted a direct reference approach in our recent legislative exercises such that technical amendments made by the IMO could be updated in a timely manner.

## LEGISLATIVE PROPOSAL

4. The legislative exercise seeks to incorporate the latest requirements of the IMSBC Code adopted by the IMO vide a 2016 resolution<sup>3</sup>. The new requirements, mostly technical in nature and have entered into force internationally since 1 January 2019, include the introduction of new specific carriage requirements for cargoes which possess a chemical hazard that could give rise to a dangerous situation on a ship, and the introduction of new carriage and documentation requirements that aim to enhance the control of coal cargoes that may liquefy.

5. While most of the aforesaid requirements have already been reflected in the local legislation by virtue of the adoption of direct references to the IMSBC Code, one requirement will necessitate amendments to the Regulation. Shippers will be required, prior to loading solid bulk cargoes onto a ship, to inform the ship master whether the cargo being carried is harmful to the marine environment in accordance with the criteria set out at Annex V to the

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Chapter XIII: Verification of compliance; and  
Chapter XIV: Safety measures for ships operating in polar waters.

<sup>2</sup> The carriage of grain in bulk is regulated by the International Code for Safe Carriage of Grain in Bulk, whose corresponding local legislation is the Merchant Shipping (Safety) (Grain) Regulation (Cap. 369AA).

<sup>3</sup> The latest amendments to the IMSBC Code were adopted vide Resolution MSC.426(98) of the Maritime Safety Committee of the IMO on 15 June 2017.

International Convention for the Prevention of Pollution from Ships (“MARPOL”)<sup>4</sup>. Provision of such information has categorically been exempted in the existing Regulation as the requirement was recommendatory and has only become mandatory upon its coming into force on 1 January 2019. To implement the IMO’s latest requirement, there is a need to remove such exemption from the Regulation.

## **THE REGULATION**

### ***Merchant Shipping (Safety) (IMSBC Code) (Amendment) Regulation 2019***

6. The Amendment Regulation is made to give effect to the latest amendments made to the IMSBC Code.

### **Adoption of the Direct Reference Approach**

7. The requirements of the IMSBC Code are technical in nature and are updated from time to time by the IMO. To allow our local legislation to be up-to-date as far as practicable with the new requirements, we have adopted a direct reference approach<sup>5</sup> wherever applicable.

## **LEGISLATIVE TIMETABLE**

8. The Amendment Regulation will be published in the Gazette on 22 March 2019 and introduced into the Legislative Council on 27 March 2019 for negative vetting.

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<sup>4</sup> Annexes to MARPOL govern various substances as follows:

- Annex I: Regulations for the prevention of pollution by oil;
- Annex II: Regulations for the control of pollution by noxious liquid substances in bulk;
- Annex III: Regulations for the prevention of pollution by harmful substances carried by sea in packaged form;
- Annex IV: Regulations for the prevention of pollution by sewage from ships;
- Annex V: Regulations for the prevention of pollution by garbage from ships; and
- Annex VI: Regulations for the prevention of air pollution from ships.

<sup>5</sup> Section 112B of the Merchant Shipping (Safety) Ordinance (Cap. 369) empowers the Secretary for Transport and Housing to make regulations to give effect to provisions of any international agreements applicable to Hong Kong as in force from time to time, by setting out or referring directly to those provisions in the regulations.

## **IMPLICATIONS OF THE PROPOSAL**

9. 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 economic, financial, civil service, productivity, environmental, sustainability, gender or family implications.

## **PUBLIC CONSULTATION**

10. The Hong Kong Fleet Operation Advisory Committee of the Marine Department was consulted in October 2018 on the proposed amendment. The Legislative Council Panel on Economic Development was consulted in November 2018 on the same. Members supported the proposal.

## **PUBLICITY**

11. A press release will be issued on 22 March 2019. A spokesperson will be available to answer enquiries.

## **ENQUIRIES**

12. 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 Choi Chi Chuen, Assistant Director (Multi-lateral Policy), Marine Department (Tel: 2852 4408).

**Transport and Housing Bureau  
Marine Department  
March 2019**

## Merchant Shipping (Safety) (IMSBC Code) (Amendment) Regulation 2019

(Made by the Secretary for Transport and Housing under sections 107 and 112B of the Merchant Shipping (Safety) Ordinance (Cap. 369))

1. **Commencement**  
This Regulation comes into operation on 23 May 2019.
2. **Merchant Shipping (Safety) (IMSBC Code) Regulation amended**  
The Merchant Shipping (Safety) (IMSBC Code) Regulation (Cap. 369 sub. leg. AZ) is amended as set out in section 3.
3. **Section 7 amended (assessment of acceptability of solid bulk cargoes for safe shipment)**  
Section 7(2)(a)—  
**Repeal**  
“, except information on whether the cargoes are harmful to the marine environment”.



Acting Secretary for Transport and Housing

15 March 2019

### Explanatory Note

- Section 7 of the Merchant Shipping (Safety) (IMSBC Code) Regulation (Cap. 369 sub. leg. AZ) (*principal Regulation*) provides that the shipper of solid bulk cargoes to be loaded on a ship must, among other things, provide the master of the ship with information on the cargoes specified in section 4.2.2 of the International Maritime Solid Bulk Cargoes Code (*IMSBC Code*), except information on whether the cargoes are harmful to the marine environment (*environmental information*).
2. This Regulation amends section 7 of the principal Regulation to give effect to the amendments made to section 4.2.2 of the IMSBC Code by Resolution MSC.426(98) adopted by the International Maritime Organization on 15 June 2017. The amended section 4.2.2 of the IMSBC Code requires that the information to be provided by the shipper must also include environmental information.
  3. This Regulation also makes a minor textual amendment to the Chinese text of section 7(2)(a) of the principal Regulation.