

LEGISLATIVE COUNCIL BRIEF

Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413)

Legislative Amendments to Implement the Latest Requirements under the International Convention for the Prevention of Pollution from Ships of the International Maritime Organization

INTRODUCTION

To implement the latest requirements under the International Convention for the Prevention of Pollution from Ships (“MARPOL”) of the International Maritime Organization (“IMO”), the Secretary for Transport and Housing has, under sections 3 and 3A of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413) (“the Ordinance”), made the following regulations —

- (a) the Merchant Shipping (Prevention of Oil Pollution) (Amendment) (No. 2) Regulation 2019, at **Annex A**; and
- (b) the Merchant Shipping (Prevention of Pollution by Garbage) (Amendment) (No. 2) Regulation 2019, at **Annex B**.

BACKGROUND

2. MARPOL seeks to protect the marine environment and minimize pollution arising from ship operations. It was adopted in 1973 and came into force internationally in 1983. Its six Annexes regulate the discharge of different pollutants¹ from ships. In Hong Kong, the requirements of

¹ 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;

MARPOL are implemented through the Ordinance and its subsidiary legislation.

LEGISLATIVE PROPOSALS

(I) Prevention of Oil Pollution from Ships

3. Annex I to MARPOL (“Annex I”) sets out the requirements on the discharge of oil and oily mixtures from ships to prevent pollution by oil from operational measures, as well as from accidental discharges. For example, it mandates the provision of an oil residue (sludge) tank in ships and sets out the capacity of the tank. In addition, the tanks must not have direct connections overboard to prevent the discharge of untreated oil residue (sludge) into the sea. In Hong Kong, the requirements under Annex I are implemented locally through the Merchant Shipping (Prevention of Oil Pollution) Regulations (Cap. 413A) (“the Oil Pollution Regulations”) and applies to all Hong Kong ships and non-Hong Kong ships while they are within the waters of Hong Kong.

4. This legislative exercise seeks to implement the latest requirement under Annex I² concerning the disposal of oil residue (sludge) by prescribing requirements on the provision of piping related to oil residue (sludge) tanks, as well as the means of disposal of oil residue (sludge) for ships of 400 gross tonnage and above. Ships of 400 gross tonnage and above will be required to have a designated pump to facilitate the disposal of oil residue (sludge). Piping for the discharge of oil residue (sludge) must be arranged in a way that prevents contamination of bilge water³.

5. As regards the means of disposal of oil residue (sludge), ships of 400 gross tonnage and above will be allowed to discharge oil residue (sludge) through approved means of disposal, including using an

Annex V: Regulations for the prevention of pollution by garbage from ships; and
Annex VI: Regulations for the prevention of air pollution from ships.

² The relevant requirements were brought forth by IMO Resolution MEPC.266(68) and came into force globally in 2017.

³ The bilge is the lowest part of the ship. Due to leakage or seepage from machinery, or other maintenance work in machinery spaces, liquids may enter various parts of the bilge to form bilge water.

incinerator or auxiliary boiler suitable for burning oil residues (sludge). We will need to amend the Oil Pollution Regulations to incorporate the above latest requirements.

(II) *Prevention of Pollution by Garbage from Ships*

6. Annex V to MARPOL (“Annex V”) seeks to eliminate and reduce the amount and environmental impact of the discharge of garbage⁴ into the sea from ships and from fixed or floating platforms. It specifies the circumstances under which garbage may be discharged from ships into the sea, and technical requirements to be met when garbage is discharged under such circumstances. Details of such discharge would have to be recorded in a Garbage Record Book kept onboard. In Hong Kong, the requirements under Annex V are implemented locally through the Merchant Shipping (Prevention of Pollution by Garbage) Regulation (Cap. 413O) (“the Garbage Pollution Regulation”) and applies to all Hong Kong ships wherever they may be and non-Hong Kong ships within the waters of Hong Kong.

7. This legislative exercise seeks to incorporate the IMO’s latest requirements with regard to the classification of harmful substances to the marine environment and the recordkeeping of discharge of garbage⁵. In gist, to assist governments, ships and port operators in implementing relevant requirements under Annex V, the IMO has established a set of mandatory criteria for classifying whether substances are harmful to the marine environment, and consolidated the criteria into Appendix I of Annex V (“Appendix I”) for easy reference to shippers and seafarers. In addition, the IMO has set out further requirements in relation to recordkeeping upon each discharge or incineration of garbage on board. Under the new requirements, more information will need to be recorded upon each discharge or incineration⁶. We will incorporate these new

⁴ Under Annex V, garbage includes all food, domestic and operational wastes, plastics, cargo residues, incinerator ashes, cooking oil, fishing gear, and animal carcasses generated during the normal operation of ships and liable to be disposed of continuously or periodically.

⁵ The relevant requirements were brought forth by IMO Resolution MEPC.277(70) and came into force globally in 2018.

⁶ For instance, the position of the ship at the time of the discharge or incineration must be recorded in terms of latitude and longitude. In the case of discharges of cargo residues, since such discharge spans over a considerable period of time, the position of the ship at both the start and stop of the discharge must also be recorded. Ships will also be required to keep receipts obtained from reception facilities upon their discharge of garbage thereto.

requirements into the Garbage Pollution Regulation and make direct references to Appendix I such that the Garbage Pollution Regulation could be kept up-to-date with the relevant IMO requirements as far as practicable.

THE REGULATIONS

Merchant Shipping (Prevention of Oil Pollution) (Amendment) (No. 2) Regulation 2019

8. The Merchant Shipping (Prevention of Oil Pollution) (Amendment) (No. 2) Regulation 2019 gives effect to the requirements under the amended Annex I to MARPOL on oil residue (sludge) tanks and the disposal of oil residue (sludge).

Merchant Shipping (Prevention of Pollution by Garbage) (Amendment) (No. 2) Regulation 2019

9. The Merchant Shipping (Prevention of Pollution by Garbage) (Amendment) (No. 2) Regulation 2019 gives effect to the requirements under the amended Annex V to MARPOL in relation to the discharge of solid bulk cargo residues and the recordkeeping obligations in a Garbage Record Book.

Application of the Direct Reference Approach

10. The requirements of MARPOL are technical in nature and are updated from time to time by the IMO. In line with the established practice in incorporating the requirements of other marine-related international conventions into our local legislation, we have adopted a direct reference approach where appropriate (e.g. direct references to Appendix I) to allow our local legislation to remain up-to-date as far as practicable⁷.

⁷ Section 3A of the Ordinance 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, either by setting out or referring to those provisions in the regulations.

LEGISLATIVE TIMETABLE

11. The regulations will be published in the Gazette on 11 October 2019 and introduced into the Legislative Council on 16 October 2019 for negative vetting.

IMPLICATIONS OF THE PROPOSAL

12. The implementation of the latest requirements under MARPOL relating to the prevention of oil pollution from ships and that of pollution by garbage from ships will contribute towards environmental protection, as well as the sustainability of the marine environment. Operators, masters and owners of Hong Kong ships are well-informed of the revised requirements and should already be in compliance with the same.

13. 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 and the existing regulations thereunder. The proposal has no economic, financial, civil service, productivity, gender or family implications.

PUBLIC CONSULTATION

14. We consulted both the Legislative Council Panel on Economic Development and the Hong Kong Fleet Operation Advisory Committee of the Marine Department in November 2018. Members supported the proposals.

PUBLICITY

15. A press release will be issued on 11 October 2019. A spokesperson will be available to answer enquiries.

ENQUIRIES

16. 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 of Marine (Multi-lateral Policy) (Tel: 2852 4408).

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

Merchant Shipping (Prevention of Oil Pollution) (Amendment) (No. 2) Regulation 2019

(Made by the Secretary for Transport and Housing under sections 3 and 3A of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413))

1. Commencement

This Regulation comes into operation on 1 January 2020.

2. Merchant Shipping (Prevention of Oil Pollution) Regulations amended

The Merchant Shipping (Prevention of Oil Pollution) Regulations (Cap. 413 sub. leg. A) are amended as set out in sections 3 to 9.

3. Regulation 1 amended (citation and interpretation)

Regulation 1(2), English text, definition of *Annex I*—

Repeal

“附則 I”

Substitute

“《附則 I》”。

4. Regulation 7 amended (issue and duration of IOPP and HKOPP Certificate)

Regulation 7(1)(a), English text—

Repeal

“off-shore”

Substitute

“offshore”.

5. Regulation 10 amended (Oil Record Book)

Regulation 10(6), English text—

Repeal

“off shore”

Substitute

“offshore”.

6. Regulation 12B added

After regulation 12A—

Add

“12B. Provision of oil residue (sludge) tank and disposal of oil residue (sludge)

- (1) This regulation applies to a ship of 400 GT and above.
- (2) Subject to paragraph (4), a ship must be provided with an oil residue (sludge) tank, and the tank must comply with Regulation 12.3 of Annex I.
- (3) The oil residue (sludge) of a ship must be disposed of directly from the oil residue (sludge) tank of the ship to one of the means described in Regulation 12.2 of Annex I.
- (4) If a ship—
 - (a) is constructed before 1 January 2017; and
 - (b) is not subject to a renewal survey under regulation 4 during the period between 1 January 2017 and the commencement date,

the oil residue (sludge) tank of the ship must comply with Regulation 12.3.3 of Annex I not later than the first renewal survey of the ship that is carried out after the commencement date.

(5) In this regulation—

commencement date (生效日期) means the date on which the Merchant Shipping (Prevention of Oil Pollution) (Amendment) (No. 2) Regulation 2019 comes into operation;

oil residue (sludge) tank (油類殘餘物(油類淤渣)液艙) has the meaning given by Regulation 1 of Annex I.”.

7. Regulation 25 repealed (tanks for oil residue (sludge))

Regulation 25—

Repeal the regulation.

8. Regulation 29 amended (subdivision and stability)

Regulation 29(9), Chinese text—

Repeal

“續期”

Substitute

“續證”.

9. Regulation 30 amended (requirements for offshore installations)

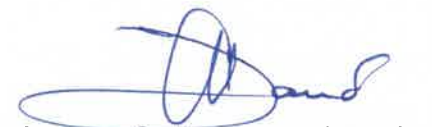
Regulation 30(1)(a)—

Repeal

“14 and 25(1)”

Substitute

“12B(2) and 14”.



Secretary for Transport and Housing

8 October 2019

Explanatory Note

This Regulation amends the Merchant Shipping (Prevention of Oil Pollution) Regulations (Cap. 413 sub. leg. A) (*principal Regulations*) to give effect to certain revisions made to Annex I to the International Convention for the Prevention of Pollution from Ships, 1973 by the International Maritime Organization Resolution MEPC.266(68).

2. A new regulation 12B is added to the principal Regulations to provide for the revised requirements on oil residue (sludge) tanks and the disposal of oil residue (sludge). Regulation 25 of the principal Regulations, which sets out the original related requirements, is repealed consequentially.
3. The Regulation also makes minor textual amendments to the principal Regulations to achieve consistency.

Merchant Shipping (Prevention of Pollution by Garbage) (Amendment) (No. 2) Regulation 2019

(Made by the Secretary for Transport and Housing under sections 3 and 3A of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413))

1. Commencement

This Regulation comes into operation on 1 January 2020.

2. Merchant Shipping (Prevention of Pollution by Garbage) Regulation amended

The Merchant Shipping (Prevention of Pollution by Garbage) Regulation (Cap. 413 sub. leg. O) is amended as set out in sections 3 to 6.

3. Section 5 amended (discharge of garbage from ships outside protected areas permitted in certain circumstances)

Section 5(6)—

Repeal

everything after “residues” and before “Annex V”

Substitute

“that are not classified as harmful to the marine environment according to appendix I to”.

4. Section 6 amended (discharge of garbage from ships within specified areas permitted in certain circumstances)

Section 6(9), definition of *harmless special cargo residues*, paragraph (b)—

Repeal

everything after “which” and before “Annex V”

Substitute

“are not classified as harmful to the marine environment according to appendix I to”.

5. Section 11 amended (Garbage Record Books)

(1) Section 11(3)—

Repeal paragraphs (b), (c) and (d)

Substitute

- “(b) the Book must record every discharge of garbage (whether into the sea or at a reception facility), and every completed incineration of garbage, in compliance with the applicable requirements in Regulations 10.3.1, 10.3.2, 10.3.3 and 10.3.4 of Annex V;
- (c) the Book must record every special discharge from a ship in compliance with the applicable requirements in Regulation 10.3.6 of Annex V; and
- (d) the Book must record every special discharge from a platform and an entry must be made of all of the following—
- (i) the circumstances of, and the reasons for, the discharge;
 - (ii) the date and time of the discharge;
 - (iii) the location and, if known, the latitude and longitude, of the platform at the time of the discharge, and the water depth of the location;

- (iv) the details of the garbage discharged, including the categories of the garbage and the estimated amount for each category in cubic metres;
- (v) the precautions taken to prevent or minimize the discharge.”.

(2) Section 11(3)—

Repeal paragraphs (e) and (f).

(3) Section 11—

Repeal subsection (4).

(4) Section 11(5), after “The Book”—

Add

“, and the receipts obtained from reception facilities,”.

(5) Section 11(5), English text—

Repeal

“in it”

Substitute

“in the Book”.

6. Section 12 amended (entries on special discharges be made)

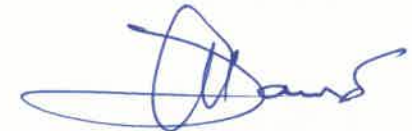
Section 12(2)—

Repeal

everything after “book of the ship”

Substitute

“in compliance with the applicable requirements in Regulation 10.3.6 of Annex V.”.



Secretary for Transport and Housing

8 October 2019

Explanatory Note

This Regulation amends the Merchant Shipping (Prevention of Pollution by Garbage) Regulation (Cap. 413 sub. leg. O) to give effect to certain amendments (including amendments relating to the record keeping obligations in a Garbage Record Book) made to Annex V to the International Convention for the Prevention of Pollution from Ships, 1973, by resolution MEPC.277(70) as has been adopted by the International Maritime Organization.