

LEGISLATIVE COUNCIL BRIEF

Dangerous Goods Ordinance
(Chapter 295)
Shipping and Port Control Ordinance
(Chapter 313)
Merchant Shipping (Local Vessels) Ordinance
(Chapter 548)

SHIPPING LEGISLATION (USE OF FUELS AND MISCELLANEOUS AMENDMENTS) BILL 2024

INTRODUCTION

At the meeting of the Executive Council on 2 July 2024, the Council ADVISED and the Chief Executive ORDERED that the Shipping Legislation (Use of Fuels and Miscellaneous Amendments) Bill 2024 (“the Bill”), at **Annex A**, should be introduced into the Legislative Council (“LegCo”).

JUSTIFICATIONS

2. Maritime decarbonisation is a growing international trend as part of the broader effort to combat climate change. In this regard, the International Maritime Organization (“IMO”) has set out a roadmap of reaching net-zero greenhouse gas emissions from international shipping by or around 2050. Various countries, especially the European Union, are also tightening regulatory requirements on carbon reduction or neutrality for the maritime sector. Coupled with an increased awareness of the idea of environmental, social and governance (“ESG”), the adoption of green shipping practices is becoming indispensable, and switching to using green fuels is a key measure, as evidenced by the rising volume of green fuels being used worldwide.

3. As an Associate Member of IMO, Hong Kong is obliged to comply with the IMO’s greenhouse gas emission target as well. As an international maritime centre, Hong Kong also needs to follow the international trend of green shipping to stay competitive. Therefore, the Government is committed to developing Hong Kong into a green port and to promoting the use of more

environmentally friendly fuels with less or zero carbon emissions (collectively referred to as “new fuels”) to replace the existing marine petroleum fuels commonly used by ships. Such new fuels may include liquefied natural gas (“LNG”), hydrogen, ammonia, methanol, ethanol, etc. In this connection, following the 2023 Policy Address as announced by the Chief Executive, the Government has commenced a feasibility study on providing green fuel bunkering for both local and ocean-going vessels, and will promulgate within 2024 an action plan for the construction of bunkering facilities and development of supply chains. The Government is also taking forward the preparatory work, including technical studies and installations, on providing LNG bunkering for ocean-going vessels.

4. In terms of the legal framework, as some of the existing marine legislation provisions were drafted based on the assumption that ships only use traditional marine petroleum fuels, and the new fuels are different from the existing marine petroleum fuels in terms of physical and chemical nature, means of carriage, storage and combustion, handling risks and hazards to the environment in case of discharge, etc., there is a need to refine the existing legislation to cater for the safe use of new fuels by vessels.

LEGISLATIVE PROPOSAL

5. We need to amend the Merchant Shipping (Local Vessels) Ordinance (Chapter 548) (“Cap. 548”) and four pieces of subsidiary legislation¹ to facilitate the use of new fuels by vessels in Hong Kong.

6. The legislative amendment proposal is based on the principle that amendments to the existing legislation will be made to allow the use of new fuels, or account for the additional safety and environmental concerns in relation to new fuels.

7. Also, as it will take time to phase out the use of marine petroleum fuels, it is likely for such fuels to be continuously used in the foreseeable future. Hence, the policy intent is to keep the existing regulatory regime in relation to

¹ The four pieces of subsidiary legislation are –

- (a) the Dangerous Goods (Shipping) Regulation 2012 (Cap. 295 sub. leg. F) (“Cap. 295F”);
- (b) the Shipping and Port Control Regulations (Cap. 313 sub. leg. A) (“Cap. 313A”);
- (c) the Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548 sub. leg. F) (“Cap. 548F”); and
- (d) the Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (Cap. 548 sub. leg. G) (“Cap. 548G”).

marine petroleum fuels intact as far as possible to allow the continual use of such fuels and avoid disruption to the shipping industry.

8. Details of the legislative proposals are set out in the ensuing paragraphs. It should be noted that the technical requirements in relation to the use of new fuels, such as safety procedures, will be prescribed through administrative measures of the Marine Department (“MD”), such as the Codes of Practice that the Director of Marine may approve and issue by notice in the Gazette under Cap. 548.

I. Regulation and Control of New Fuels

9. The IMO has developed standards on the use of new fuels through international conventions, including relevant amendments, modifications and adaptations. We anticipate that local vessel operators would consider the use of new fuels in their daily operation soon. Hence, there is a need to provide for the regulation and control on the use of new fuels by local vessels. Therefore, we propose to empower the Secretary for Transport and Logistics (“STL”) under section 89 of Cap. 548 to make regulations in relation to the use of fuels by local vessels.

10. In order to closely follow the rapidly changing international standards and practices concerning, *inter alia*, the regulation of new fuels, we propose to empower the STL under section 89A of Cap. 548 to make regulations for matters related to the safety of navigation, the safety of life at sea, the protection of life or property on vessels, or the prevention of air or water pollution by making direct reference to international agreements that are applicable to Hong Kong, such as the relevant safety standards and requirements adopted by the IMO.

II. Bunkering Vessels Berthing alongside Another Vessel

11. Section 45(2) of Cap. 313A forbids an oil bunkering vessel that exceeds 2 000 net tonnage to lie alongside another vessel for the purpose of bunkering. Similarly, section 27(1) of Cap. 548F forbids a local vessel that is constructed or adapted for the carriage of petroleum product in bulk and exceeds 2 000 net tonnage to lie alongside any other vessel.

12. Due to the increasing size of cargo ships, the bunkering vessels supplying fuels to these cargo ships have also become bigger. Also, as some

new fuels have a lower energy density than traditional marine petroleum fuels, it is expected that future bunkering vessels will become even bigger than those in operation now. Hence, it is proposed to amend Cap. 313A and Cap. 548F such that bunkering vessels of any tonnage may lie alongside another vessel for bunkering.

13. Despite removal of the tonnage requirement on bunkering vessels that berth alongside another vessel for bunkering, as mentioned in paragraph 8 above, the MD will continue to ensure the safety of bunkering operations by prescription of technical requirements in Codes of Practice or licensing requirements of the relevant vessels with reference to the relevant safety standards adopted internationally.

III. The Use of Low-flashpoint Fuels by Vessels

14. Section 81 of Cap. 548G restricts the use of engines that use fuel oil with a flash point of less than 60°C. It does not regulate other kinds of new fuels that have a low flashpoint. Hence, we need to introduce a new requirement by adding a new section 81A to allow the use of low-flashpoint fuel on vessels and ensure that the risks to the safety of the gas carrier or vessel, health and safety of any person on board as well as damage to the environment are minimized.

IV. Regulations for Vessels Carrying New fuels within Hong Kong Waters

15. The operation of bunkering vessels is regulated under section 91 of Cap. 548F. However, section 91(2)(a) refers to the carriage of petroleum products in bulk only. We need to expand the coverage of section 91 to include new fuels.

16. Similarly, section 26 of Cap. 295F regulates type 3 vessels carrying Class 3 or 3A dangerous goods^{2, 3} under the International Maritime Dangerous Goods Code only. Since some new fuels are Class 2 dangerous goods⁴ and the

² Class 3 dangerous goods include flammable liquids and liquid desensitized explosives. Examples include gasoline, diesel fuel and methanol.

³ Class 3A dangerous goods include diesel oils (distillates and/or light residuals), furnace oils and other fuel oils having a flashpoint exceeding 60°C (closed-cup test).

⁴ Class 2 dangerous goods include gas substance which at 50°C has a vapour pressure greater than 300 kPa or is completely gaseous at 20°C at a standard pressure of 101.3 kPa. Examples include hydrogen, nitrogen and helium.

anchoring and berthing of type 3 vessels carrying such goods should be regulated as well, we need to impose restrictions on the anchoring and berthing of vessels carrying Class 2 dangerous goods.

OTHER OPTIONS

17. The existing provisions of Cap. 548 and the four pieces of subsidiary legislation concerned do not provide for or regulate the use of new fuels. Hence, to implement the above proposal, the only option is to amend the relevant provisions of Cap. 548 and the four pieces of subsidiary legislation.

THE BILL

18. The main provisions of the Bill are as follows –

- (a) **Clause 1** sets out the short title of the Bill and provides for commencement.
- (b) **Clause 2** introduces the enactments that are amended by the Bill.
- (c) **Clauses 3 to 7** amend Cap. 295F to –
 - (i) replace the definition of *approved petroleum wharf* with that of *approved wharf* as the wharves concerned are handling petroleum fuel as well as other fuels;
 - (ii) make relevant amendments consequential to the above change; and
 - (iii) regulate type 3 vessels carrying Class 2 dangerous goods as some of the new fuels are Class 2 dangerous goods.
- (d) **Clauses 8 to 24** amend Cap. 313A to –
 - (i) provide that a bunkering vessel of any tonnage may lie alongside another vessel for the purpose of bunkering; and
 - (ii) deal with minor technical amendments to the section references in the Schedules to Cap. 313A.
- (e) **Clauses 25 and 26** amend Cap. 548 to empower the STL to make regulations –
 - (i) in relation to the use of fuels by local vessels; and
 - (ii) for giving effect to certain international agreements that are

applicable to Hong Kong.

- (f) **Clauses 27 and 28** amend Cap. 548F to –
 - (i) provide for the carriage of fuel in bulk by a vessel; and
 - (ii) provide that a bunkering vessel of any tonnage may lie alongside another vessel for the purpose of bunkering.
- (g) **Clauses 29 to 34** amend Cap. 548G to –
 - (i) regulate the fitting of an engine or equipment that uses certain types of low-flashpoint fuel on local vessels and make related amendments;
 - (ii) provide for the requirements relating to the use of low-flashpoint fuel and the related offences; and
 - (iii) revise certain requirements relating to the provision of life-saving appliances on local vessels.

LEGISLATIVE TIMETABLE

19. The Bill will be published in the Gazette on 5 July 2024 and introduced into the LegCo on 10 July 2024.

IMPLICATIONS OF THE PROPOSAL

20. The proposal has no financial, competition, civil service, productivity, gender or family implications. Its economic implications to the shipping industry are set out in **Annex B**. Its environmental and sustainability implications are set out in **Annex C**. The proposal will not affect the current binding effect of Cap. 548, Cap. 295 and Cap. 313. It is in conformity with the Basic Law, including provisions concerning human rights.

PUBLIC CONSULTATION

21. The MD consulted the Local Vessels Advisory Committee in December 2023 and the Port Operations Committee in January 2024 respectively. The Transport and Logistics Bureau and MD also consulted the Panel on Economic Development of the LegCo in February 2024. Members supported the legislative proposal.

PUBLICITY

22. A press release will be issued on 3 July 2024. A spokesperson will be available to handle enquires.

ENQUIRIES

23. Any enquiries about this brief can be addressed to Mr Klaus CHAN, Principal Assistant Secretary for Transport and Logistics (Tel: 3509 8162), or Mr Luis SHI, Deputy Director of Marine (Tel: 2852 4402).

Transport and Logistics Bureau
Marine Department
July 2024

Shipping Legislation (Use of Fuels and Miscellaneous Amendments) Bill 2024

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A BILL

To

Amend certain shipping legislation to facilitate and regulate the use of certain types of fuels by vessels; to amend the Merchant Shipping (Local Vessels) Ordinance to empower the Secretary for Transport and Logistics to make regulations for giving effect to certain international agreements that are applicable to Hong Kong; to revise certain requirements relating to the provision of life-saving appliances on local vessels; and to make related and miscellaneous amendments.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Shipping Legislation (Use of Fuels and Miscellaneous Amendments) Ordinance 2024.
- (2) This Ordinance comes into operation on a day to be appointed by the Secretary for Transport and Logistics by notice published in the Gazette.

2. Enactments amended

The enactments specified in Parts 2 to 6 are amended as set out in those Parts.

Part 2

**Amendments to Dangerous Goods (Shipping)
Regulation 2012 (Cap. 295 sub. leg. F)**

3. **Section 2 amended (interpretation)**
- (1) Section 2—
Repeal the definition of *approved petroleum wharf*.
- (2) Section 2—
Add in alphabetical order
“*approved wharf* (認可碼頭) means a wharf specified in Schedule 1;”.
4. **Section 13 amended (movement generally of type 2 vessels carrying Class 2, 3 or 3A dangerous goods)**
Section 13(1)(a)(i)—
Repeal
“petroleum”.
5. **Section 14 amended (anchoring and berthing of type 2 vessels carrying Class 2, 3 or 3A dangerous goods)**
Section 14(1)(a)—
Repeal
“petroleum”.
6. **Section 26 amended (anchoring and berthing of type 3 vessels carrying Class 3 or 3A dangerous goods)**
- (1) Section 26, heading—
Repeal

- “Class 3”**
Substitute
“Class 2, 3”.
- (2) Section 26(1)—
Repeal
“Class 3”
Substitute
“Class 2, 3”.
- (3) Section 26(1)(a)—
Repeal
“petroleum”.
Substitute
“Class 3”
- (4) Section 26(2)—
Repeal
“Class 3”
Substitute
“Class 2, 3”.
7. **Schedule 1 heading amended (approved petroleum wharves)**
Schedule 1, heading—
Repeal
“Petroleum”.
-

Part 3

Amendments to Shipping and Port Control Regulations (Cap. 313 sub. leg. A)

8. Regulation 45 amended (vessels alongside berthed vessels)

Regulation 45(2)—

Repeal

“An oil bunkering vessel not exceeding 2 000 tons net register”

Substitute

“A bunkering vessel”.

9. First Schedule amended (VHF channels)

First Schedule—

Repeal

“& 6]”

Substitute

“, 6 & 72]”.

10. Second Schedule amended (VHF sectors)

Second Schedule—

Repeal

“, 6 & First Schedule]”

Substitute

“, 72 & First Schedule]”.

11. Third Schedule amended (principal fairways)

Third Schedule—

Repeal

“reg. 2]”

Substitute

“regs. 2 & 72]”.

12. Fourth Schedule amended (speed of vessels)

Fourth Schedule—

Repeal

“reg. 19]”

Substitute

“regs. 19 & 72]”.

13. Fifth Schedule amended (restricted areas, etc.)

Fifth Schedule—

Repeal

“& 24]”

Substitute

“, 24 & 72]”.

14. Sixth Schedule amended (cable reserves)

Sixth Schedule—

Repeal

“& 23]”

Substitute

“, 23 & 72]”.

15. Seventh Schedule amended (special anchorages)

Seventh Schedule—

Repeal

“reg. 2]”

Substitute

“regs. 2 & 72]”.

16. Eighth Schedule amended (berthing and other signals)

Eighth Schedule—

Repeal

“reg. 33]”

Substitute

“regs. 33 & 72]”.

17. Ninth Schedule amended (towing signals)

Ninth Schedule—

Repeal

“reg. 38]”

Substitute

“regs. 38 & 72]”.

18. Tenth Schedule amended (calling-in points)

Tenth Schedule—

Repeal

“& 12B]”

Substitute

“, 12B & 72]”.

19. Eleventh Schedule amended

Eleventh Schedule—

Repeal

“& 69]”

Substitute

“, 69 & 72]”.

20. Fifteenth Schedule amended (seaward limits of the vessel traffic service coverage)

Fifteenth Schedule—

Repeal

“& 7]”

Substitute

“& 72]”.

21. Sixteenth Schedule amended (information to be provided to the Director by notification or report under regulation 6A)

Sixteenth Schedule—

Repeal

“reg. 6A]”

Substitute

“regs. 6A & 72 & Seventeenth Schedule]”.

22. Seventeenth Schedule amended (tanker arrival notice)

Seventeenth Schedule—

Repeal

“s. 32A]”

Substitute

“regs. 32A & 72]”.

23. Schedule 18 amended (restricted zones)

Schedule 18—

Repeal

“reg. 19]”

Substitute

“regs. 19 & 72]”.

24. Nineteenth Schedule amended (prohibited anchorage area)

Nineteenth Schedule—

Repeal

“reg. 41A]”

Substitute

“regs. 41A & 72]”.

Part 4

**Amendments to Merchant Shipping (Local Vessels)
Ordinance (Cap. 548)**

25. Section 89 amended (regulations—general)

After section 89(1)(zq)—

Add

“(zqa) the conveyance, storage, bunkering, use, transfer and handling of fuels;”.

26. Section 89A added

After section 89—

Add

“89A. Regulations relating to international agreements applicable to Hong Kong

- (1) The Secretary for Transport and Logistics may make regulations for giving effect (whether in whole or in part) to any provisions of an international agreement applicable to Hong Kong, as amended from time to time, so far as the agreement relates to any of the following matters—
- (a) the safety of navigation;
 - (b) the safety of life at sea;
 - (c) the protection of life or property on vessels;
 - (d) the prevention of air pollution or water pollution from vessels.
- (2) For the purposes of subsection (1), any such regulations may, whether in a Schedule or otherwise—

- (a) set out or refer directly to those provisions; and
 - (b) specify amendments, modifications or adaptations subject to which those provisions are to have effect.”.
-

Part 5

Amendments to Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548 sub. leg. F)

27. Section 27 amended (local vessels alongside berthed vessels)

- (1) Section 27(1)—

Repeal

“and exceeds 2 000 net tonnage shall”

Substitute

“or fuel in bulk and exceeds 2 000 net tonnage must”.

- (2) After section 27(1)—

Add

“(1A) Despite subsection (1), if a local vessel referred to in that subsection is a bunkering vessel, the vessel may lie alongside another vessel for the purpose of bunkering.”.

28. Section 91 amended (control over bunkering activities)

Section 91(2)(a), after “product in bulk”—

Add

“or fuel in bulk”.

Part 6

Amendments to Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (Cap. 548 sub. leg. G)

29. **Part 11 heading amended (specific requirements relating to
plying limits, radars, engines and other equipment)**

Part 11, heading, after “PLYING LIMITS,”—

Add

“USE OF FUEL,”.

30. **Section 78A amended (interpretation of Part 11)**

Section 78A, Chinese text, definition of 甚高頻—

Repeal

“率；”

Substitute

“率。”.

31. **Section 81 amended (restriction on use of certain engines)**

(1) Section 81, heading—

Repeal

everything after “Restriction on”

Substitute

“fitting of certain engines and equipment”.

(2) Section 81(1)—

Repeal

“fuel oil”

Substitute

“petroleum fuel”.

(3) After section 81(1)—

Add

“(1A) A local vessel must not be fitted with an engine or equipment that uses gaseous or liquid fuel (other than petroleum fuel) with a flash point of less than 60°C (closed cup test), unless the fitting of such engine or equipment is approved by the Director.”.

(4) Section 81(3), after “subsection (1)”—

Add

“or (1A)”.

32. **Section 81A added**

Part 11, after section 81—

Add

**“81A. Requirements relating to vessels fitted with engines or
equipment that use low-flashpoint fuel**

(1) The owner, the owner’s agent and the coxswain of a gas carrier fitted with an engine or equipment that uses low-flashpoint fuel must ensure that the liquefied gases in bulk on board are conveyed and handled in a manner such that the following risks are minimized—

- (a) risk to the safety of the gas carrier;
- (b) risk to the health and safety of any person on board;
- (c) risk of damage to the environment.

(2) The owner, the owner’s agent and the coxswain of a vessel (other than a gas carrier) fitted with an engine or equipment that uses low-flashpoint fuel must ensure that

low-flashpoint fuel is used and handled in a manner such that the following risks are minimized—

- (a) risk to the safety of the vessel;
 - (b) risk to the health and safety of any person on board;
 - (c) risk of damage to the environment.
- (3) If subsection (1) or (2) is contravened in respect of a vessel, the owner, the owner's agent and the coxswain of the vessel each commit an offence and are liable on conviction to a fine at level 2.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person had a reasonable excuse for contravening subsection (1) or (2) (as the case requires).
- (5) In this section—

low-flashpoint fuel (低閃點燃料) means gaseous or liquid fuel (other than petroleum fuel) with a flash point of less than 60°C (closed cup test).”.

33. Schedule 3 amended (provision of life-saving appliances)

- (1) Schedule 3, Part 2, Table 4—

Repeal

“Oil carrier having cargoes”

Substitute

“Vessels having cargoes in bulk”.

- (2) Schedule 3, Part 2, Table 4, Note (2)(a), after “edible oil carrier,”—

Add

“gas carrier,”.

34. Schedule 6 amended (local vessels to which section 81(1) of this Regulation does not apply)

- (1) Schedule 6—

Repeal Part 1.

- (2) Schedule 6, Part 2, heading—

Repeal the heading.

Explanatory Memorandum

The main objects of this Bill are—

- (a) to amend certain shipping legislation to facilitate and regulate the use of new types of fuels that are more environmentally friendly (*new fuels*) by vessels in Hong Kong; and
- (b) to amend the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) (*Cap. 548*) to empower the Secretary for Transport and Logistics (*Secretary*) to make regulations for giving effect to certain international agreements that are applicable to Hong Kong.

2. The Bill is divided into 6 Parts.

Part 1—Preliminary

3. Clause 1 sets out the short title and provides for commencement.

Part 2—Amendments to Dangerous Goods (Shipping) Regulation 2012 (Cap. 295 sub. leg. F) (*Cap. 295F*)

4. Clause 3 amends section 2 of Cap. 295F to repeal the definition of *approved petroleum wharf* and add a new definition of *approved wharf*, as the wharves specified in Schedule 1 to Cap. 295F are handling petroleum fuel as well as other fuels.
5. Clauses 4, 5, 6(3) and 7 respectively amend sections 13, 14 and 26 of and Schedule 1 to Cap. 295F consequential to the amendments made under clause 3.
6. As some new fuels are classified as Class 2 dangerous goods, clause 6(1), (2) and (4) amends section 26 of Cap. 295F so that Class 2 dangerous goods are covered under that section.

Part 3—Amendments to Shipping and Port Control Regulations (Cap. 313 sub. leg. A) (*Cap. 313A*)

7. Clause 8 amends regulation 45 of Cap. 313A so that a bunkering vessel of any tonnage may lie alongside another vessel for the purpose of bunkering.
8. Clauses 9 to 24 deal with minor technical amendments to the references to the provisions in the Schedules to Cap. 313A.

Part 4—Amendments to Cap. 548

9. Clause 25 amends section 89 of Cap. 548 so that the Secretary may make regulations in relation to the use of fuels by local vessels.
10. Clause 26 adds a new section 89A to Cap. 548 to empower the Secretary to make regulations for giving effect to certain international agreements that are applicable to Hong Kong. Regulations made may refer directly to the provisions in the agreements and specify the amendments, modifications or adaptations subject to which those provisions are to have effect.

Part 5—Amendments to Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548 sub. leg. F) (*Cap. 548F*)

11. Clauses 27(1) and 28 respectively amend sections 27(1) and 91(2)(a) of Cap. 548F so that a vessel constructed or adapted for the carriage of fuel in bulk is also covered under those 2 sections.
12. Clause 27(2) adds a new subsection (1A) to section 27 of Cap. 548F to provide for an exception to section 27(1) of Cap. 548F, so that a bunkering vessel may lie alongside another vessel for the purpose of bunkering.

Part 6—Amendments to Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (Cap. 548 sub. leg. G) (*Cap. 548G*)

13. Clause 31 amends section 81 of Cap. 548G to regulate the fitting of an engine or equipment that uses certain types of low-flashpoint fuel on local vessels. Clause 34 makes related amendments to Schedule 6 to Cap. 548G.
14. Clause 32 adds a new section 81A to Cap. 548G to provide for the requirements relating to the use of low-flashpoint fuel and the related offences.
15. Clause 33 amends Schedule 3 to Cap. 548G to revise certain requirements relating to the provision of life-saving appliances on local vessels.

Implications of the Proposal

Economic implications

The proposal would facilitate the development of Hong Kong into a green fuel bunkering centre and attract more ocean-going vessels to call at the Hong Kong Port, thereby helping to maintain the status and competitiveness of Hong Kong as an international maritime centre.

Implications of the Proposal

Environmental and sustainability implications

The legislative proposal, coupled with other measures of the Government to promote green fuel bunkering, helps to encourage the use of new fuels that reduce carbon emission and other air pollutants compared with traditional marine petroleum fuels, thereby contributing to improving the air quality and combating climate change in Hong Kong.