

For discussion on
18 December 2023

Legislative Council Panel on Economic Development

Legislative Amendments to Implement the Latest Requirements of the International Maritime Organization and the International Labour Organization

PURPOSE

This paper consults Members on four legislative proposals to implement the latest amendments to the conventions of the International Maritime Organization (“IMO”) and the International Labour Organization (“ILO”), namely (a) the International Convention for the Safety of Life at Sea, 1974 (“SOLAS”)¹ with the newly adopted International Code of Safety

¹ Different chapters of the Annex to SOLAS and appendix contain provisions relating to-

- General Provisions (Chapter I);
- Construction – Structure, subdivision and stability, machinery and electrical installations (Chapter II-1);
- Construction - Fire protection, fire detection and fire extinction (Chapter II-2);
- Life-saving appliances and arrangements (Chapter III);
- Radiocommunications (Chapter IV);
- Safety of navigation (Chapter V);
- Carriage of Cargoes and oil fuels (Chapter VI);
- Carriage of dangerous goods (Chapter VII);
- Nuclear ships (Chapter VIII);
- Management for the safe operation of ships (Chapter IX);
- Safety measures for high-speed craft (Chapter X);
- Special measures to enhance maritime safety (Chapter XI-1);
- Special measures to enhance maritime security (Chapter XI-2);
- Additional safety measures for bulk carriers (Chapter XII);
- Verification of compliance (Chapter XIII);
- Safety measures for ships operating in polar waters (Chapter XIV);
- Safety measures for ships carrying industrial personnel (Chapter XV); and
- 1974 SOLAS Certificates (Appendix).

for Ships Carrying Industrial Personnel (“IP Code”)²; (b) the International Convention for the Prevention of Pollution from Ships, 1973 (“MARPOL”)³ as modified by the Protocol of 1978 relating thereto; as well as (c) the Maritime Labour Convention, 2006 (“MLC”)⁴ concerning the following areas-

- (a) safety standards for ships carrying industrial personnel;
- (b) the Garbage Record Book requirement;
- (c) new designation of an emission control area for sulphur oxides and particulate matter; and
- (d) welfare of seafarers, including –
 - (i) seafarer recruitment and placement services;
 - (ii) provision of drinking water supplies and balanced meals;
 - (iii) repatriation of the bodies or ashes of deceased seafarers;
 - (iv) report of deaths of seafarers; and
 - (v) provision of appropriately sized personal protective equipment.

BACKGROUND

2. In Hong Kong, the requirements of SOLAS are implemented through the Merchant Shipping (Safety) Ordinance (Cap. 369) (“the Safety

² Different parts of the IP Code contain provisions relating to General Provisions (Part I); Goals and functional requirements (Part II); Regulations (Part III); Additional regulations for ships certified in accordance with SOLAS Chapter I (Part IV); and Additional regulations for craft certified in accordance with SOLAS Chapter X (Part V).

³ Annexes to MARPOL govern various substances relating to-

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

⁴ MLC comprises of three different but related parts: the Articles, the Regulations and the Code. The Regulations and the Code are organised under five titles, which contain provisions relating to-

- Minimum requirements for seafarers to work on a ship (Title 1);
- Conditions of employment (Title 2);
- Accommodation, recreational facilities, food and catering (Title 3);
- Health protection, medical care, welfare and social security protection (Title 4); and
- Compliance and enforcement (Title 5).

Ordinance”) and its subsidiary legislation. The requirements of MARPOL are implemented through the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413) (“the Pollution Ordinance”) and its subsidiary legislation. The requirements of MLC are implemented through the Merchant Shipping (Seafarers) Ordinance (Cap. 478) (“the Seafarers Ordinance”) and its subsidiary legislation. Incorporating the latest requirements into our local legislation will be achieved by making a new subsidiary legislation and amending the schedule to one ordinance and six pieces of subsidiary legislation as set out in the ensuing paragraphs.

LEGISLATIVE PROPOSALS

I. Safety standards for ships carrying industrial personnel

IMO requirements

3. The IMO Resolution MSC.521 (106) adopted on 10 November 2022 to introduce a new Chapter XV – “*Safety measures for ships carrying industrial personnel*” of SOLAS, which requires relevant ships carrying industrial personnel to comply with the IP Code adopted by another IMO Resolution MSC.527(106) on the same day⁵. The new requirements aim to provide minimum safety standards for ships that carry industrial personnel and for the personnel themselves, as well as address specific risks of maritime operations within the offshore and energy sectors, such as personnel transfer operations. Such personnel may be engaged in the construction, maintenance, decommissioning, operation or servicing of offshore facilities (such as windfarms), as well as offshore oil and gas installations, aquaculture, ocean mining or similar activities.

5 The IP Code, which sets out goals, functional requirements and additional regulations to facilitate the safe carriage and transfer of industrial personnel by addressing risks connected to such operations onboard, regulates the following subjects: (a) Industrial personnel; (b) Safe transfer of personnel; (c) Subdivision and stability; (d) Machinery installations; (e) Electrical installations; (f) Periodically unattended machinery spaces; (g) Fire safety; (h) Life-saving appliances; and (i) Dangerous goods.

4. The above new requirements are expected to enter into force on 1 July 2024 and will apply to cargo ships and high-speed cargo craft, of 500 gross tonnages and upwards, constructed on or after 1 July 2024 (“new ships”), which carry more than 12 industrial personnel.

5. A transitional period will be provided for existing cargo ships or high-speed cargo craft constructed before 1 July 2024 that are authorised to carry more than 12 industrial personnel. During the transition period, they must continue to comply with the safety standards set out in the *Interim Recommendations on the Safe Carriage of More Than 12 Industrial Personnel on Vessels Engaged on International Voyages* (MSC.418(97)) adopted on 25 November 2016. As for existing cargo ships or high-speed cargo craft constructed before 1 July 2024 that have not been authorised to carry more than 12 industrial personnel, they shall fully comply with and be certified in accordance with Chapter XV of SOLAS and the IP Code before carrying more than 12 industrial personnel on board after 1 July 2024.

Proposed legislative amendments

6. It is proposed to implement Chapter XV of SOLAS and the IP Code in Hong Kong through enacting a new Merchant Shipping (Safety) (Ships Carrying Industrial Personnel) Regulation (“the New Safety Regulation”) under the Safety Ordinance (Cap. 369). The proposed New Safety Regulation under Cap. 369 should come into operation on 1 July 2024 and contain the requirements regarding safety, certification and survey as stipulated in the IP Code on all Hong Kong registered ships operating on international voyages as well as non-Hong Kong registered ships within the waters of Hong Kong.

7. For ships that comply with the requirements of Chapter XV of SOLAS and the IP Code, the Marine Department and/or its Recognized Organizations will document the compliance by issuing the IP Safety

Certificate. With a view to enhancing the efficiency of shipowners and ship operators in daily operations, it is proposed to amend the Schedule to the Safety Ordinance (Cap. 369) to facilitate the issue of the IP Certificate in either electronic or paper form.

8. In order to facilitate the Marine Department to carry out relevant surveys on a ship for the issue of or endorsement of an IP Safety Certificate, it is also proposed to amend the Schedule to the Merchant Shipping (Fees) Regulations (Cap. 281F) (“the Fees Regulations”) so as to prescribe the fee payable for the issue of the IP Safety Certificate upon satisfactory survey results. The new prescribed fee would be determined by the time required for the survey and charged at the hourly rate defined in the Fees Regulations (Cap. 281F).

II. The Garbage Record Book requirement

IMO requirements

9. Annex V to MARPOL sets out the requirements for managing garbage generated on board ships, including carrying a Garbage Record Book on every ship of 400 gross tonnage (“GT”) and above to record every discharge. The requirements are implemented in Hong Kong through the Merchant Shipping (Prevention of Pollution by Garbage) Regulation (Cap. 413O) (“the Garbage Pollution Regulation”).

10. IMO adopted an amendment by Resolution MEPC.360(79) to lower the GT threshold to make the Garbage Record Book mandatory for every ship of 100 GT and above. The amendments will enter into force on 1 May 2024 and apply to new and existing ships.

Proposed legislative amendments

11. It is proposed to amend the Garbage Pollution Regulation (Cap. 413O) to implement the revised requirements on Hong Kong registered ships as well as all ships within the waters of Hong Kong.

III. New designation of an emission control area for sulphur oxides and particulate matter (“SO_x ECA”)

IMO requirements

12. Annex VI to MARPOL defines the geographical limits of the designated SO_x ECAs. It requires that the sulphur content of fuel oil used on board a ship operating within an SO_x ECA shall not exceed 0.10% m/m and that a ship shall carry written procedure and records of fuel oil changeover when entering or leaving an SO_x ECA. The relevant requirements for ships operating within SO_x ECAs are implemented through the Merchant Shipping (Prevention of Air Pollution) Regulation (Cap. 413P) (“the Air Pollution Regulation”).

13. IMO adopted an amendment by Resolution MEPC.361(79) to designate the Mediterranean Sea as a new SO_x ECA with boundaries defined, which will enter into force on 1 May 2024. MARPOL further specifies that ships operating in an SO_x ECA during the first 12 months immediately following entry into force of an amendment designating that SO_x ECA are exempted from the relevant requirements in MARPOL.

Proposed legislative amendments

14. While designation of the Mediterranean Sea as a new SO_x ECA will be incorporated under the Air Pollution Regulation (Cap. 413P) by virtue of the direct reference approach to the relevant regulation in MARPOL, the

current Air Pollution Regulation (Cap. 413P) does not include an express provision giving effect to this 12-month exemption as provided by MARPOL. Therefore, it is proposed to amend the Air Pollution Regulation (Cap. 413P) to give effect to the 12-month exemption as intended under MARPOL that is applicable to all Hong Kong registered ships operating in the newly designated SO_x ECA.

IV. Welfare of seafarers

15. Promulgated by the ILO, the MLC sets out a comprehensive set of global standards for the working and living conditions of seafarers and seeks to protect the welfare of seafarers. The ILO at the 110th Session of the International Labour Conference approved eight amendments to the MLC (“2022 Amendments”) which are expected to enter into force on 23 December 2024.

Proposed legislative amendments

16. We propose implementing the latest requirements of the 2022 Amendments⁶ by amending the Merchant Shipping (Seafarers) (Working and Living Conditions) Regulation (Cap. 478AF); the Merchant Shipping (Seafarers) (Returns of Births, Deaths and Missing Persons) Regulation (Cap. 478F); and the Merchant Shipping (Seafarers) (Health and Safety: General Duties) Regulation (Cap. 478C) as set out below-

(i) Seafarer recruitment and placement services

17. The MLC requires relevant seafarer recruitment and placement services to establish a system of protection, by way of insurance or an equivalent appropriate measure, to compensate seafarers for monetary loss

⁶ Once the proposed legislative exercise is completed, the Government of the HKSAR will invite the Central People’s Government to notify ILO to extend the 2022 Amendments to the HKSAR. The 2022 Amendments to the MLC will be extended to the HKSAR on a date to be specified after such notification.

that they may incur as a result of the failure of a recruitment and placement service or the relevant shipowner under the seafarers' employment agreement to meet its obligations to them. The 2022 Amendments further require the relevant seafarer recruitment and placement services to ensure that seafarers are informed, prior to or in the process of engagement, of their rights under that system. It is proposed to amend Cap. 478AF to implement this new requirement on all Hong Kong registered ships.

(ii) Provision of drinking water supplies and balanced meals

18. The MLC has requirements regarding the quantity, nutritional value, quality, variety and inspection of supplies of food and drinking water for seafarers on board a ship. On top of existing provision in the MLC that food is to be provided free of charge to seafarers while they are on board, the 2022 Amendments further stipulate that drinking water shall also be provided free of charge during the period of engagement, and the provisions shall be inspected in relation to their quantity, nutritional value, quality and variety, with highlights on the importance of provision of balanced meals on board. It is proposed to amend Cap. 478AF to implement this new requirement on all Hong Kong registered ships.

(iii) Repatriation of the bodies or ashes of deceased seafarers

19. The 2022 Amendments require members to facilitate the repatriation of the body or ashes of deceased seafarers by the shipowner, in accordance with the wishes of seafarers or their next of kin, as appropriate. It is proposed to amend Cap. 478AF to impose the requirement of repatriation of the body or ashes of deceased seafarers on the obligations of the shipowners of Hong Kong registered ships. Local repatriation will be facilitated by administrative means. Meanwhile, the Marine Department will assist shipowners in requesting facilitation from the port State concerned for overseas repatriation.

(iv) Report of deaths of seafarers

20. The 2022 Amendments require that members shall ensure that all deaths of seafarers employed, engaged or working on board ships that fly its flag are adequately investigated, recorded and reported on an annual basis to the Director-General of the International Labour Office to be published in a global register. The relevant fatality data to be reported should be in the format and using the classification as specified by the International Labour Office. It is proposed to amend Cap. 478F to include the newly required particulars in the return of deaths (such as the type and gross tonnage of ship and the type (classification) of death) to be submitted to Marine Department by the master of a Hong Kong registered ship.

(v) Provision of appropriately-sized personal protective equipment

21. The MLC has requirements for the general duties of shipowners to ensure the health and safety of seafarers on board ships. The 2022 Amendments further require the provision of all necessary appropriately-sized personal protective equipment as reasonable precautions to prevent occupational accidents, injuries and diseases on board ship. It is proposed to amend Cap. 478C to implement this requirement on all Hong Kong registered ships as well as non-Hong Kong registered ships within the waters of Hong Kong.

CONSULTATION

22. The Hong Kong Fleet Operation Advisory Committee was consulted on the legislative proposals related to the safety standards for ships carrying industrial personnel, Garbage Record Book requirement and new designation of an SOx ECA on 18 September 2023. No adverse comment was received from members.

23. The Hong Kong Fleet Operation Advisory Committee and the Seafarers' Advisory Board were consulted on the proposed legislative amendments related to welfare of seafarers on 24 August 2023. Members supported the legislative proposal.

24. The consultation with the Local Vessels Advisory Committee on the legislative proposal concerning the Garbage Record Book requirement is in progress.

ADVICE SOUGHT

25. Members are invited to give their views on the above proposals. Subject to the drafting progress, we plan to introduce the legislative proposals into the Legislative Council for negative vetting in the first quarter of 2024 to ensure timely implementation of the latest IMO and ILO requirements in Hong Kong.

Transport and Logistics Bureau
Marine Department
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