

LEGISLATIVE COUNCIL BRIEF

Merchant Shipping (Prevention and Control of Pollution) Ordinance
(Chapter 413)

MERCHANT SHIPPING (PREVENTION AND CONTROL OF POLLUTION) (FEES) (AMENDMENT) REGULATION 2007

INTRODUCTION

At the meeting of the Executive Council on 6 November 2007, the Council ADVISED and the Chief Executive ORDERED that the Merchant Shipping (Prevention and Control of Pollution) (Fees) (Amendment) Regulation 2007 (“Fees Amendment Regulation”), at Annex, should be made to introduce the fees payable for the services rendered by Government surveyors and the issue of certificates by the Director of Marine under the Merchant Shipping (Prevention of Air Pollution) Regulation (“Air Pollution Regulation”), and to reflect the extension of office hours on Mondays to Fridays under the arrangement for five-day week in the Government service.

JUSTIFICATIONS

2. The International Convention for the Prevention of Pollution from Ships, 1973, was modified by the Protocol of 1978 relating thereto, and was further amended by the Protocol of 1997 (“MARPOL”). Annex VI of MARPOL, as subsequently amended by the International Maritime Organization (“IMO”) via Resolution MEPC 132(53) (“MARPOL Annex VI”), relates to the prevention of air pollution from ships. To implement MARPOL Annex VI in the Hong Kong Special Administrative Region (“HKSAR”), Secretary for Transport and Housing made the Air Pollution Regulation under section 3(2) of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (“the Ordinance”).

3. The Air Pollution Regulation stipulates, among other things, the survey and certification requirements for specified ships of 400 gross tonnage or above that are Hong Kong ships. Notwithstanding that the Marine Department (“MD”) will authorize Classification Societies to carry out the relevant survey and certification work, Government surveyors may, on the applications made by ship operators to the Director of Marine, be asked to carry out the necessary surveys and certification for those ships. It is Government’s policy to charge fees for services provided and the fees should in general be set at levels sufficient to recover the full cost of providing such services. To provide the necessary legal backing for the Director of Marine to charge and collect fees from the ship operators for providing such services, it is necessary to make consequential amendments to the Merchant Shipping (Prevention and Control of Pollution) (Fees) Regulation (“Fees Regulation”).

4. In addition, following the implementation of five-day week in MD since 1 January 2007, it is necessary to amend the Fees Regulation to reflect the extended office hours on Mondays to Fridays.

5. Under section 3(2A) of the Ordinance, the Fees Amendment Regulation shall be made by the Chief Executive in Council.

6. Upon the completion of the legislative process for the Fees Amendment Regulation, we shall request the Central People’s Government to notify IMO of the application of MARPOL Annex VI to HKSAR.

THE REGULATION

7. By introducing the Fees Amendment Regulation, the Fees Regulation will be extended to apply to services provided by the Government as prescribed in the Air Pollution Regulation. The level of charges proposed in the Fees Amendment Regulation are the same as those currently charged for similar services prescribed in another subsidiary legislation made under the Ordinance.

8. The main provisions are -

- (a) **Sections 2, 4 and 5:** the existing fee mechanism is expanded to cover the fees payable for the services rendered by Government surveyors, and the issue of International Air Pollution Prevention Certificates or Hong Kong Air Pollution Prevention Certificates, by the Director of Marine, under the Air Pollution Regulation; and
- (b) **Sections 2 and 3:** the office hours on Mondays to Fridays are extended under the arrangement for five-day week in the Government service.

LEGISLATIVE TIMETABLE

9. The legislative timetable will be -

Publication in the Gazette	16 November 2007
Tabling at the Legislative Council	21 November 2007

IMPLICATIONS OF THE PROPOSAL

10. The proposal has little economic implication to ship operators as the additional cost for survey and certification is insignificant compared to their total operating cost, whereas the preventive control embodied in the survey and certification service will contribute to the protection of the environment. It has no significant sustainability implications. Although revenue will be generated from charging fees in respect of services provided under the Air Pollution Regulation, the amount to be collected on cost recovery basis is expected to be very small and hence the financial implications are negligible. MD will absorb the additional work for implementing the requirements of the Air Pollution Regulation and collecting fees under the Fees Amendment Regulation through its existing staff and resources. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The proposal will not affect the current binding effect of the Ordinance and the Fees Regulation.

PUBLIC CONSULTATION

11. During the consultation on the Air Pollution Regulation, the industry, including the Technical Sub-Committee of the Hong Kong Shipowners Association, the Shipping Consultative Committee, Technical Sub-Committee of the Provisional Local Vessel Advisory Committee and the High Speed Craft Consultative Committee, has been consulted on the proposed fees for providing survey and certification services. The industry has no objection to the proposal, which is technical in nature. The Legislative Council Panel on Economic Services was consulted in February 2006 and they supported the proposal. As regards the revised office hours, the Shipping Consultative Committee, the Local Vessel Advisory Committee and the High Speed Craft Consultative Committee were consulted. The industry has no objection to the proposal.

PUBLICITY

12. A press release will be issued. A spokesman will be available to handle press enquiries.

ENQUIRIES

13. Any enquiries on this brief can be addressed to Mr. Y M Cheng (Tel: 2852 4603), Acting Chief of Maritime Policy or Mr. Daniel Fong (Tel: 2121 2340), Assistant Secretary for Transport and Housing.

Transport and Housing Bureau
14 November 2007

**MERCHANT SHIPPING (PREVENTION AND
CONTROL OF POLLUTION)(FEES)(AMENDMENT)
REGULATION 2007**

(Made by the Chief Executive in Council under section 3(2A) of the
Merchant Shipping (Prevention and Control of Pollution)
Ordinance (Cap. 413))

1. Commencement

This Regulation shall come into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.

2. Interpretation

Section 2 of the Merchant Shipping (Prevention and Control of Pollution)(Fees) Regulation (Cap. 413 sub. leg. L) is amended –

- (a) by repealing the definition of “Government surveyor” and substituting –

““Government surveyor” (政府驗船師) means a person appointed by the Director –

- (a) to be a Government surveyor under section 4 of the Merchant Shipping (Prevention of Pollution by Sewage) Regulation (Cap. 413 sub. leg. K); or
- (b) to be a Government surveyor under section 44 of the Merchant Shipping (Prevention of Air Pollution) Regulation (L.N. 149 of 2007);”;

(b) by repealing the definition of “office hours” and substituting –

““office hours” (辦公時間) means the hours between 8:30 a.m. and 5:45 p.m. on Monday to Friday, excluding general holidays.”.

3. Additional fees for services outside office hours

(1) Section 6(1)(a) is amended by repealing “is a weekday (other than a Saturday)” and substituting “falls on any day from Monday to Friday”.

(2) Section 6(1)(a)(i) is amended by repealing “7 a.m. and 9 a.m. or between 5 p.m. and 7 p.m.” and substituting “6:30 a.m. and 8:30 a.m. or between 5:45 p.m. and 7:45 p.m.”.

(3) Section 6(1)(a)(ii) is amended by repealing “7 a.m. or after 7 p.m.” and substituting “6:30 a.m. or after 7:45 p.m.”.

(4) Section 6(1)(b) is repealed.

(5) Section 6(1)(c) is amended by adding “Saturday or” before “Sunday”.

4. Specified services

Schedule 1 is amended by adding –

“2. An initial survey, renewal survey, intermediate survey, annual survey or additional survey within the meaning of the Merchant Shipping (Prevention of Air Pollution) Regulation (L.N. 149 of 2007).”.

5. Specified certificates

Schedule 2 is amended by adding –

“2. An IAPP Certificate or HKAPP Certificate within the meaning of the Merchant Shipping (Prevention of Air Pollution) Regulation (L.N. 149 of 2007).”.

Clerk to the Executive Council

COUNCIL CHAMBER

2007

Explanatory Note

This Regulation amends the Merchant Shipping (Prevention and Control of Pollution)(Fees) Regulation (Cap. 413 sub. leg. L) to –

- (a) introduce the fees payable for the services rendered by Government surveyors, and the issue of IAPP Certificates or HKAPP Certificates by the Director of Marine, under the Merchant Shipping (Prevention of Air Pollution) Regulation (L.N. 149 of 2007); and
- (b) reflect in the provisions the extension of office hours on Mondays to Fridays under the arrangement for five-day week in government service.