

HIGH SPEED CRAFT CONSULTATIVE COMMITTEE

**Amending Schedule 2 of the
Merchant Shipping (Limitation of Shipowners Liability) Ordinance (Cap.434) for
Implementing the 2012 Amendments to the 1996 LLMC Protocol**

PURPOSE

The purpose of this paper is to seek members' views on the proposal of amendments to the Schedule 2 of the Merchant Shipping (Limitation of Shipowners Liability) Ordinance (Cap. 434) (the Ordinance) to implement the amended limitation amounts as adopted by the International Maritime Organization (IMO) Resolution LEG.5(99) on 19 April 2012. The relevant amendments for increasing the limitation amounts will enter into force on 8 June 2015.

BACKGROUND

2. The Convention on Limitation of Liability for Maritime Claims, 1976 (the Convention) has been applicable to the Hong Kong Special Administrative (HKSAR) since it came into force in 1986. The Ordinance was enacted on 1 October 1993 to give effect to the Convention.

3. The Protocol of 1996 to amend the Convention on Limitation of Liability for Maritime Claims, 1976 (the 1996 LLMC Protocol) was adopted by IMO on 2 May 1996. HKSAR Government had made the Merchant Shipping (Limitation of Shipowners Liability) (Amendment) Ordinance 2005 ("the Amendment Ordinance") to reflect the changes in 1996 LLMC Protocol.

4. The 1996 LLMC Protocol eventually entered into force for the HKSAR on 3 May 2015. Consequentially, in the gazette published on 30 April 2015 (L.N. 81 of 2015), the Secretary for Transport and Housing appointed 3 May 2015 as the day on which those sections related to the 1996 LLMC Protocol of the Amendment Ordinance come into operation.

5. On 19 April 2012, IMO adopted Resolution LEG.5(99) for further amending the limitation amounts in the 1996 LLMC Protocol. Details of the said IMO Resolution LEG.5(99) can be found in the **Annex**. The 2012 Amendments solely increase the limits of liability relating to the claims of loss of life, personal injury and other claims for 51%.

6. In accordance with the tacit acceptance procedure of the 1996 LLMC Protocol, the

new limits will enter into force on 8 June 2015. (i.e., after 36 months when State Parties were notified about the amendments by a Note Verbale dated 8 June 2012)

PROPOSALS

7. HKSAR Government has an international obligation to implement the latest amendments adopted by the IMO through local legislation. Since the 1996 LLMC Protocol is now applicable to HKSAR and being implemented by the Ordinance, a legislative exercise is required to amend the relevant limitation amounts in Schedule 2 of the Ordinance in order to reflect the changes made by the amendments adopted by IMO Resolution LEG.5(99).

8. A comparison showing the differences of the relevant limitation amounts before and after the 2012 Amendments could be found in the following table:

	Limits by 1996 LLMC Protocol (Also under existing Ordinance - Cap.434, Schedule 2)	Revised limits by the 2012 Amendments
1. Limits of liability in respect of claims for loss of life or personal injury against the ship which is (except for own passengers)		
Up to 2000 GRT	2,000,000 units*	3,020,000 units
Each GRT from 2,001 to 30,000	800 units	1,208 units
Each GRT from 30,001 to 70,000	600 units	906 units
Each GRT above 70,000	400 units	604 units
2. Limits of liability in respect of any other claims(property) against the ship which is (except for own passengers)		
Up to 2,000 GRT	1,000,000 units	1,510,000 units
Each GRT from 2,001 to 30,000	400 units	604 units
Each GRT from 30,001 to 70,000	300 units	453 units
Each GRT above 70,000	200 units	302 units
3. Limit of liability of claims from (own) passengers		
All ships	175,000 units multiplied by the number of passengers the ship licensed to carry.	No change

* Note:

Units of account: Special Drawing Right (SDR)

As at 11.05.2015, 1 SDR equals to 10.9 HKD.

IMPLICATIONS TO SHIPPING INDUSTRY

9. Although the changes of the relevant limitation amounts in Schedule 2 of Cap.434 will increase shipowners' liability limits for claims relating to loss of life or personal injury and other claims, it will have an insignificant impact on the operating costs of a ship as insurance premium is mainly determined by a ship's quality and track record as well as risk incurred. The liability limit is not the main factor in determining the level of premium.

ADVICE SOUGHT

10. Members' comments and endorsement are sought on the proposal as outlined above.

Marine Department
Multi-lateral Policy Division
14 May 2015

Enclosure:

- Annex: IMO Resolution LEG.5(99).