

《燃油污染(法律责任及补偿)条例》

BUNKER OIL POLLUTION (LIABILITY AND
COMPENSATION) ORDINANCE

(第 605 章)

(Cap. 605)

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本条例旨在就下述事宜订定条文——

- (a) 就因船舶排放或逸漏燃油造成污染而引致的损害，或就该等损害的威胁，作出补偿；
- (b) 船东的法律责任，以及关于该等法律责任的强制保险；及
- (c) 相应、附带或相关事宜。

[2010 年 1 月 22 日] 2009 年第 235 号法律公告

(略去制定语式条文——2014 年第 2 号编辑修订纪录)

第 1 部

导言

1. 简称

- (1) 本条例可引称为《燃油污染(法律责任及补偿)条例》。
- (2) (已失时效而略去——2014 年第 2 号编辑修订纪录)
(编辑修订——2014 年第 2 号编辑修订纪录)

2. 释义

- (1) 在本条例中——
“主管当局”(competent authority)指第 13(5)条所界定的主管当局；
“申请费用”(application fee)——

An Ordinance to provide for—

- (a) compensation in respect of damage arising from contamination caused by the discharge or escape of bunker oil from ships or in respect of a threat of such damage;
- (b) the liability of shipowners and compulsory insurance in respect of the liability; and
- (c) consequential, incidental or related matters.

[22 January 2010] L.N. 235 of 2009

(Enacting provision omitted—E.R. 2 of 2014)

PART 1

PRELIMINARY

1. Short title

- (1) This Ordinance may be cited as the Bunker Oil Pollution (Liability and Compensation) Ordinance.
- (2) (Omitted as spent—E.R. 2 of 2014)
(Amended E.R. 2 of 2014)

2. Interpretation

- (1) In this Ordinance—
“application fee” (申请费用) means—
 - (a) in relation to an application for an insurance certificate to be issued by the Director, the fee prescribed in regulations made under section 33; and

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- (a) 就申请由处长发出的保险证书而言，指根据第 33 条订立的规例所订明的费用；及
- (b) 就申请由获授权人发出的保险证书而言，指该人根据第 25(3) 条厘定的费用；
- “地方” (place) 包括 ——
- (a) 某地方的领海；及
- (b) 某地方按照国际法设立的专属经济区，如没有该专属经济区，则包括按照国际法厘定，在该地方领海以外但毗邻其领海的范围，该范围伸展至不多于从量度该地方领海宽度的基线起计的 200 海里；
- “污染损害” (pollution damage) 就某事故而言 ——
- (a) 如该事故造成某船舶排放或逸漏燃油，指 ——
- (i) 该宗排放或逸漏所引致的污染所造成的、在该船舶以外的损害；
- (ii) 在该宗排放或逸漏发生之后采取的任何预防措施的费用；或
- (iii) 在该宗排放或逸漏发生之后采取的任何预防措施所造成的、在该船舶以外的损害；及
- (b) 如该事故导致出现有关的污染威胁，指 ——
- (i) 在该事故发生之后采取的任何预防措施的费用；或
- (ii) 在该事故发生之后采取的任何预防措施所造成的、在该船舶以外的损害；
- “有关的污染威胁” (relevant threat of contamination) 指一旦有船舶排放或逸漏燃油便可能会引致的污染所造成的、在该船舶以外的损害的重大和迫切的威胁；
- “事故” (incident) 指任何事件或同一肇因的一系列事件，而该宗或该等事件 ——
- (a) 造成某船舶排放或逸漏燃油；或
- (b) 导致出现有关的污染威胁；

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- (b) in relation to an application for an insurance certificate to be issued by an authorized person, the fee determined by the person under section 25(3);
- “authorized person” (获授权人) means a person authorized under section 25(1);
- “bunker oil” (燃油), in relation to a ship, means—
- (a) any hydrocarbon mineral oil used or intended to be used for the operation or propulsion of the ship; or
- (b) any residue of the hydrocarbon mineral oil referred to in paragraph (a);
- “Bunker Oil Convention” (《燃油公约》) means the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 done at London on 23 March 2001;
- “Bunker Oil Convention place” (《燃油公约》适用地) means a place in respect of which the Bunker Oil Convention is in force;
- “competent authority” (主管当局) means a competent authority as defined in section 13(5);
- “cost” (费用) includes expenses;
- “Court” (法庭) means the Court of First Instance;
- “damage” (损害) includes loss, but does not include loss of life or personal injury;
- “Director” (处长) means the Director of Marine;
- “enforcement officer” (执法人员) means the Director or any officer appointed under section 26;
- “gross tonnage” (总吨位), in relation to a ship, means the gross tonnage of the ship determined in accordance with regulation 6 of the Merchant Shipping (Registration) (Tonnage) Regulations (Cap. 415 sub. leg. C);

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- “法庭”(Court)指原讼法庭；
- “指明证书”(specified certificate)指第 13(5)条所界定的指明证书；
- “保险证书”(insurance certificate)指第 13(1)条所规定的证书；
- “船东”(shipowner)就某船舶而言，指——
- (a) 该船舶的空船承租人；
 - (b) 该船舶的管理人；
 - (c) 该船舶的注册拥有人；或
 - (d) 任何其他属该船舶的拥有人或营运人的人；
- “船舶”(ship)指任何种类可在海域航行的船只或海上船艇；
- “处长”(Director)指海事处处长；
- “执法人员”(enforcement officer)指处长或根据第 26 条获委任的任何人员；
- “费用”(cost)包括开支；
- “注册拥有人”(registered owner)就某船舶而言——
- (a) 如该船舶由某国家拥有，并由在该国家注册为该船舶的营运人的人营运，指该人；及
 - (b) 在任何其他情况下，指注册为该船舶的拥有人的人，如无人注册为该船舶的拥有人，则指拥有该船舶的人；
- “预防措施”(preventive measures)就某事故而言——
- (a) 如该事故造成船舶排放或逸漏燃油，指任何人为防止或尽量减少在“污染损害”的定义(a)(i)段中提述的损害而采取的任何合理措施；及
 - (b) 如该事故导致出现有关的污染威胁，指任何人为防止或尽量减少一旦有船舶排放或逸漏燃油便可能会引致的污染所造成的、在该船舶以外的损害而采取的任何合理措施；
- “损害”(damage)包括损失，但不包括人命损失或人身伤害；

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- “incident”(事故) means any occurrence, or any series of occurrences having the same origin, that—
- (a) causes any discharge or escape of bunker oil from a ship; or
 - (b) causes any relevant threat of contamination to occur;
- “insurance certificate”(保险证书) means a certificate required under section 13(1);
- “place”(地方) includes—
- (a) the territorial sea of a place; and
 - (b) any exclusive economic zone of a place established in accordance with international law or, in the absence of such an exclusive economic zone, an area beyond and adjacent to the territorial sea of the place determined in accordance with international law and extending not more than 200 nautical miles from the baseline from which the breadth of its territorial sea is measured;
- “pollution damage”(污染损害), in relation to an incident, means—
- (a) if the incident causes any discharge or escape of bunker oil from a ship—
 - (i) any damage caused outside the ship by contamination resulting from the discharge or escape;
 - (ii) the cost of any preventive measures taken after the discharge or escape; or
 - (iii) any damage caused outside the ship by any preventive measures taken after the discharge or escape; and
 - (b) if the incident causes any relevant threat of contamination to occur—
 - (i) the cost of any preventive measures taken after the incident; or

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- “燃油”(bunker oil)就某船舶而言，指——
- (a) 任何用于或拟用于操作或推进该船舶的碳化氢矿物油；或
 - (b) (a)段提述的碳化氢矿物油的任何残余物；
- “《燃油公约》”(Bunker Oil Convention)指于2001年3月23日在伦敦签订的《2001年国际燃油污染损害民事责任公约》；
- “《燃油公约》适用地”(Bunker Oil Convention place)指《燃油公约》对之有效的地方；
- “获授权人”(authorized person)指根据第25(1)条获授权的人；
- “总吨位”(gross tonnage)就某船舶而言，指按照《商船(注册)(吨位)规例》(第415章，附属法例C)第6条测定的该船舶的总吨位。
- (2) 就本部而言，如超过一宗排放或逸漏，是由同一事件所引致的，或是由同一肇因的一系列事件所引致的，则——
 - (a) 该等排放或逸漏，须一并视为单一宗排放或逸漏；及
 - (b) 在任何该等排放或逸漏发生之后采取的措施，须视为在该单一宗排放或逸漏发生之后采取。
 - (3) 就本部而言，如任何有关的污染威胁，是由同一肇因的一系列事件所组成的事故所引致的，在任何该等事件发生之后采取的措施，须视为在该事故发生之后采取。
 - (4) 在本部中，凡提述任何船舶排放或逸漏任何燃油，即提述该船舶排放或逸漏任何燃油，而不论该宗排放或逸漏是在香港或任何其他地方发生的。
 - (5) 在本部及第2部中，凡提述某船舶的船东——
 - (a) 就该船舶排放或逸漏燃油所引致的任何污染损害而言——
 - (i) 即提述在引致该宗排放或逸漏的有关事件发生时该船舶的船东；或

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- (ii) any damage caused outside the ship by any preventive measures taken after the incident;
- “preventive measures”(预防措施), in relation to an incident, means—
- (a) if the incident causes any discharge or escape of bunker oil from a ship, any reasonable measures taken by a person to prevent or minimize any damage referred to in paragraph (a)(i) of the definition of “pollution damage”; and
 - (b) if the incident causes any relevant threat of contamination to occur, any reasonable measures taken by a person to prevent or minimize any damage caused outside a ship by contamination that might result if there were a discharge or escape of bunker oil from the ship;
- “registered owner”(注册拥有人), in relation to a ship, means—
- (a) if the ship is owned by a state and operated by a person registered in that state as the operator of the ship, that person; and
 - (b) in any other case, the person registered as the owner of the ship or, if no person is registered as the owner of the ship, the person who owns the ship;
- “relevant threat of contamination”(有关的污染威胁) means a grave and imminent threat of damage caused outside a ship by contamination that might result if there were a discharge or escape of bunker oil from the ship;
- “ship”(船舶) means a sea-going vessel or seaborne craft of any type;
- “shipowner”(船东), in relation to a ship, means—
- (a) the bareboat charterer of the ship;
 - (b) the manager of the ship;
 - (c) the registered owner of the ship; or

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- (ii) (如该宗排放或逸漏,是由同一肇因的一系列事件所引致的)即提述在该等事件中首宗事件发生时该船舶的船东;及
- (b) 就有关的污染威胁所引致的任何污染损害而言——
- (i) 即提述在引致该威胁的有关事件发生时该船舶的船东;或
- (ii) (如该威胁的出现,是由同一肇因的一系列事件所引致的)即提述在该等事件中首宗事件发生时该船舶的船东。
- (6) 就第 3 部而言,如某船舶的总吨位并非整数,则须舍去小数。
- (7) 在本条例中——
- (a) 凡提述由某国家拥有或营运的船舶,即包括——
- (i) 由某国家的政府拥有或营运的船舶;及
- (ii) 由某国家内的任何地区(包括香港特别行政区)的政府拥有或营运的船舶;
- (b) 凡提述由某国家拥有的船舶,即包括——
- (i) 由某国家的政府拥有的船舶;及
- (ii) 由某国家内的任何地区(包括香港特别行政区)的政府拥有的船舶;及
- (c) 就 (b)(i) 或 (ii) 段所述的由政府拥有的船舶而言,在第 13(5) 条“指明证书”的定义中,提述有关国家发出的证书,即提述由拥有该船舶的政府发出的证书。

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- (d) any other person who is the owner or the operator of the ship;
- “specified certificate” (指明证书) means a specified certificate as defined in section 13(5).
- (2) For the purposes of this Part, if more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin—
- (a) the discharges or escapes together are to be treated as a single discharge or escape; and
- (b) any measures taken after any of those discharges or escapes are to be treated as having been taken after the single discharge or escape.
- (3) For the purposes of this Part, if any relevant threat of contamination results from an incident that consists of a series of occurrences having the same origin, any measures taken after any of those occurrences are to be treated as having been taken after the incident.
- (4) In this Part, a reference to a discharge or escape of any bunker oil from a ship is a reference to a discharge or escape of any bunker oil from the ship, regardless of whether the discharge or escape occurs in Hong Kong or any other place.
- (5) In this Part and Part 2, a reference to the shipowner of a ship is a reference to—
- (a) in relation to any pollution damage resulting from a discharge or escape of bunker oil from the ship—
- (i) the shipowner of the ship at the time of the occurrence resulting in the discharge or escape; or
- (ii) if the discharge or escape resulted from a series of occurrences having the same origin, the shipowner of the ship at the time of the first of those occurrences; and

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- (b) in relation to any pollution damage resulting from a relevant threat of contamination—
 - (i) the shipowner of the ship at the time of the occurrence resulting in the threat; or
 - (ii) if the threat occurs as a result of a series of occurrences having the same origin, the shipowner of the ship at the time of the first of those occurrences.
- (6) For the purposes of Part 3, if the gross tonnage of a ship is not a whole number, decimals are to be rounded off downwards.
- (7) In this Ordinance—
 - (a) a reference to a ship owned or operated by a state includes—
 - (i) a ship owned or operated by the government of a state; and
 - (ii) a ship owned or operated by the government of a territory within a state (including the HKSAR);
 - (b) a reference to a ship owned by a state includes—
 - (i) a ship owned by the government of a state; and
 - (ii) a ship owned by the government of a territory within a state (including the HKSAR); and
 - (c) in relation to a ship owned by the government mentioned in paragraph (b)(i) or (ii), the reference to a certificate issued by the state in the definition of “specified certificate” in section 13(5) is a reference to a certificate issued by the government that owns the ship.

3. 条例的适用范围

- (1) 除第(2)及(3)款另有规定外，本条例适用于任何船舶，

3. Application of Ordinance

- (1) Subject to subsections (2) and (3), this Ordinance applies to

- 不论该船舶是否在香港水域内，并包括由特区政府拥有或营运的船舶。
- (2) 本条例不适用于——
 - (a) 任何军舰；
 - (b) 任何海军辅助船舰；或
 - (c) 由某国家拥有或营运，并在当其时被该国纯粹用于政府的非商业服务的任何其他船舶。
 - (3) 凡《法律责任公约》适用于某项污染损害，本条例并不就该项污染损害而适用。
 - (4) 特区政府或任何以公职人员身分行事的公职人员，均不得被控犯违反本条例的罪行。
 - (5) 在第(3)款中，“《法律责任公约》”(Liability Convention)指经国际海事组织法律委员会于2000年10月18日采纳的第LEG.1(82)号决议修改的《1992年国际油污损害民事责任公约》。
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- any ship, whether or not within the waters of Hong Kong, including a ship owned or operated by the Government.
- (2) This Ordinance does not apply to—
 - (a) any warship;
 - (b) any naval auxiliary; or
 - (c) any other ship that is owned or operated by a state and for the time being used by it only on government non-commercial service.
 - (3) This Ordinance does not apply in relation to any pollution damage to which the Liability Convention applies.
 - (4) Neither the Government, nor any public officer in the officer's capacity as such, is liable to be prosecuted for an offence against this Ordinance.
 - (5) In subsection (3), "Liability Convention" (《法律责任公约》) means the International Convention on Civil Liability for Oil Pollution Damage, 1992, as modified by Resolution LEG. 1(82) adopted by the Legal Committee of the International Maritime Organization on 18 October 2000.
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第 2 部**污染损害的法律責任****4. 本部的适用范围**

凡任何事件在本部生效前发生，本部并不就该宗事件而适用。如同一肇因的一系列事件中的首宗事件在本部生效前发生，本部亦不就该等事件中的任何事件而适用。

5. 船舶船东就污染损害的法律責任

- (1) 如因某事故而在香港造成污染损害，有关的船舶的船东须为该项损害承担法律责任。
- (2) 如——
 - (a) 有法律责任根据第(1)款产生；及
 - (b) 有关事故亦在任何其他《燃油公约》适用地造成污染损害，
 则有关的船舶的船东亦须为该项损害承担法律责任，而任何人可根据本款针对该船东的法律责任在法庭提出申索，犹如该项损害是在香港造成一样。
- (3) 除非属以下情况，否则船舶船东无须根据第(1)或(2)款，为可归因于环境受损的任何损害承担法律责任——
 - (a) 该项损害属因环境受损而引致的利润损失；或
 - (b) 该项损害属已经或将会为恢复环境而采取的合理措施的费用。

PART 2**LIABILITY FOR POLLUTION DAMAGE****4. Application of this Part**

This Part does not apply in relation to any occurrence that took place before the commencement of this Part or, if there is a series of occurrences having the same origin and the first of those occurrences took place before the commencement, any of those occurrences.

5. Liability of shipowners of ships for pollution damage

- (1) If, as a result of an incident, any pollution damage is caused in Hong Kong, the shipowner of the ship concerned is liable for the damage caused.
- (2) If—
 - (a) a liability arises under subsection (1); and
 - (b) the incident also causes any pollution damage in any other Bunker Oil Convention place,
 the shipowner of the ship concerned is also liable for the damage caused, and a claim against the shipowner's liability under this subsection may be brought in the Court as if the damage were caused in Hong Kong.
- (3) The shipowner of a ship is not liable under subsection (1) or (2) for any damage attributable to the impairment of the environment unless the damage is—
 - (a) loss of profits from the impairment of the environment; or
 - (b) cost of any reasonable measures of reinstatement of the environment actually taken or to be taken.

6. 船舶船东的共同及各别法律责任

- (1) 如根据第 5 条招致法律责任，而有关船舶有超过一名船东，则该等船东须与每一其他船东共同及各别承担该法律责任。
- (2) 如 2 艘或多于 2 艘船舶中的每一船舶的船东根据第 5 条而招致法律责任，而如无本款规定，该等船舶的每一船东须为之承担法律责任的污染损害，按理不能与其他船东须为之承担法律责任的污染损害区分，则所有该等船舶的船东，均须与每一其他船东共同及各别承担全部损害的法律責任。
- (3) 如根据第 5 条，某人须承担并非是该人的过错所引致的污染损害的法律責任，则纵使该项损害并非是该人的过错所引致，但《法律修订及改革(综合)条例》(第 23 章)第 21 条就该项损害而适用，犹如该项损害是该人的过错所引致一样。

7. 第 5 条的法律責任的豁免

船舶船东如证明某事故符合以下说明，即无须根据第 5 条为该事故所引致的任何损害承担法律責任——

- (a) 该事故由战争、敌对行为、内战、叛乱或不可避免及不可抵抗的异常自然现象所引致；
- (b) 该事故完全由任何其他人意图造成损害而作出或不作出的任何事情所引致，而该人并非该船东的雇员或代理人；
- (c) 该事故完全由蒙受有关的损害的人的疏忽所引致；或
- (d) 该事故完全由负责维持灯号或其他助航设备的政府或其他当局在执行其维持职能时的疏忽或不当作为所引致。

6. Liability of shipowners of ships—joint and several

- (1) If a liability is incurred under section 5 and the ship concerned has more than one shipowner, the shipowners are liable jointly and severally with each other.
- (2) If a liability is incurred under section 5 by the shipowner of each of 2 or more ships, and the pollution damage for which each of the shipowners of those ships would, apart from this subsection, be liable cannot reasonably be separated from that for which the other shipowner or shipowners would be liable, the shipowners of all those ships are liable jointly and severally with each other for the whole of the damage.
- (3) If a person is liable under section 5 for any pollution damage that is not due to the person's fault, then despite the fact that the damage is not due to the person's fault, section 21 of the Law Amendment and Reform (Consolidation) Ordinance (Cap. 23) applies in relation to the damage as if it were due to the person's fault.

7. Exemptions from liability under section 5

The shipowner of a ship is not liable under section 5 in respect of any damage resulting from an incident if the shipowner proves that the incident—

- (a) resulted from an act of war, hostilities, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon;
- (b) was due wholly to anything done or omitted to be done by any other person, not being a servant or agent of the shipowner, with intent to cause damage;
- (c) was due wholly to the negligence of the person who suffered the damage; or

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第 8 条

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8. 船舶船东的法律责任的限制

如船舶船东已根据第 5 条而招致法律责任，或被指称已根据第 5 条而招致法律责任——

- (a) 该船东可在法庭提起诉讼，以根据《商船(限制船东责任)条例》(第 434 章)第 III 部限制本身的法律责任；及
- (b) 为 (a) 段目的，该船东的法律责任，须视为关于该条例附表 2 所列的《1976 年海事索赔责任限制公约》第 2 条第 1(a) 段所述的财产损坏的责任。

9. 船舶船东以外的人的法律责任

- (1) 如有事故发生，不论有关的船舶的船东是否根据第 5 条而招致法律责任，就因某指明人士的作为或不作为而引致的该条提述的损害而言，除非该人士——
 - (a) 意图造成该项损害而作出或不作出该作为；或
 - (b) 明知该作为或不作为颇有可能造成该项损害，仍罔顾后果地作出或不作出该作为，
 否则该人士无须为该项损害承担法律责任。
- (2) 在第 (1) 款中，“指明人士”(specified person) 指——
 - (a) 有关船舶的船东的雇员或代理人；
 - (b) 不属 (a) 段描述，但于该船舶上受雇或受聘担当任何职分，或受雇或受聘为该船舶提供任何服务的人；

- (d) was due wholly to the negligence or wrongful act of a government or any other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible.

8. Limitation of liability of shipowners of ships

If the shipowner of a ship has incurred or is alleged to have incurred a liability under section 5—

- (a) the shipowner may bring an action in the Court to limit the shipowner's liability under Part III of the Merchant Shipping (Limitation of Shipowners Liability) Ordinance (Cap. 434); and
- (b) the liability of the shipowner is, for the purposes of paragraph (a), to be treated as a liability in respect of damage to property mentioned in paragraph 1(a) of Article 2 of the Convention on Limitation of Liability for Maritime Claims, 1976 set out in Schedule 2 to that Ordinance.

9. Liability of persons other than shipowners of ships

- (1) If an incident occurs, whether or not the shipowner of the ship concerned incurs a liability under section 5, a specified person is not liable for any damage referred to in that section resulting from any act done or omitted to be done by the person, unless the person—
 - (a) did the act or omitted to do the act with intent to cause the damage; or
 - (b) recklessly did the act or omitted to do the act knowing that the damage would probably be caused.
- (2) In subsection (1), “specified person” (指明人士) means—
 - (a) any servant or agent of the shipowner of the ship;

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- (c) 在该船舶的船东同意下(或在获赋权发出进行海难救助行动指示的公共当局指示下)进行海难救助行动的人;
- (d) 采取预防措施的人;或
- (e) (c)或(d)段所述的人的雇员或代理人。

10. 第三者向承保人索偿的权利

- (1) 如有指称指——
 - (a) 某船舶的船东因某事故而根据第 5 条招致法律责任;而
 - (b) 在该事故发生时,有就该船舶发出的保险证书所关乎的保险合约或其他保证合约正属有效,
 则可针对提供该项保险或保证的人(“承保人”),提起法律程序以强制执行关于该法律责任的申索。
- (2) 如有人根据本条针对承保人提出申索——
 - (a) 承保人可根据第 8 条在法庭提起诉讼,以根据《商船(限制船东责任)条例》(第 434 章)第 III 部限制本身的法律责任,犹如该承保人是有关船舶的船东一样;及
 - (b) 该船舶的船东无权(或有可能无权)根据该条例第 III 部限制本身的法律责任此一事实,并不影响承保人根据该部限制本身的法律责任的权利。
- (3) 如——

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- (b) any person who does not fall within the description in paragraph (a) but is employed or engaged in any capacity on board the ship or to perform any services for the ship;
- (c) any person who performs salvage operations with the consent of the shipowner of the ship or on the instructions of a public authority who is vested with the power to issue the instructions;
- (d) any person who takes preventive measures; or
- (e) any servant or agent of a person mentioned in paragraph (c) or (d).

10. Rights of third parties against insurers

- (1) If it is alleged that—
 - (a) as a result of an incident the shipowner of a ship has incurred a liability under section 5; and
 - (b) while the incident occurred, there was in force a contract of insurance or other security to which an insurance certificate in respect of the ship relates,
 legal proceedings to enforce a claim in respect of the liability may be brought against the person who provided the insurance or other security (an “insurer”).
- (2) If a claim is brought against an insurer under this section—
 - (a) the insurer may bring an action in the Court under section 8 to limit the insurer’s liability under Part III of the Merchant Shipping (Limitation of Shipowners Liability) Ordinance (Cap. 434) as if the insurer were the shipowner of the ship; and
 - (b) the fact that the shipowner of the ship may not be or is not entitled to limit the shipowner’s liability under Part

- (a) 有关船舶的船东，会有权就根据第 5 条针对该船东的申索而援引任何免责辩护，则在根据本条针对承保人而提起的法律程序中，承保人有权援引该免责辩护；及
- (b) 有人根据本条针对承保人而提起法律程序，除影响该船东的法律责任的免责辩护外，承保人如证明有关事故是由该船东故意作出的不当行为所引致，即可以此作为免责辩护，
但在上述法律程序中，承保人无权援引他在该船东针对他而提起的法律程序中或会有权援引的任何其他免责辩护。
- (4) 在根据本条针对承保人而提起的法律程序中，承保人可要求有关船舶的船东加入该宗诉讼成为一方。
- (5) 《第三者(向保险人索偿权利)条例》(第 273 章)并不就保险证书所关乎的任何保险合同而适用。

11. 船舶船东是否在第 5 条外为污染损害等承担法律责任

如有事故发生，船舶船东无须根据香港任何其他法律，为第 5 条提述的任何污染损害承担法律责任，不论该船东是否根据该条须承担法律责任。

- III of that Ordinance does not affect the right of the insurer to limit the insurer's liability under that Part.
- (3) In any legal proceedings brought against an insurer under this section—
- (a) the insurer is entitled to invoke any defence that the shipowner of the ship would have been entitled to invoke in relation to a claim against the shipowner under section 5; and
- (b) it is a defence, in addition to any defence affecting the liability of the shipowner, for the insurer to prove that the incident was due to the wilful misconduct of the shipowner,
- but the insurer is not entitled to invoke any other defence that the insurer might have been entitled to invoke in legal proceedings brought by the shipowner against the insurer.
- (4) In any legal proceedings brought against an insurer under this section, the insurer may require the shipowner of the ship to join in the proceedings as a party.
- (5) The Third Parties (Rights against Insurers) Ordinance (Cap. 273) does not apply in relation to any contract of insurance to which an insurance certificate relates.

11. Whether shipowners of ships would be liable for pollution damage etc. otherwise than under section 5

If an incident occurs, whether or not the shipowner of a ship is liable under section 5, the shipowner is not liable under any other law of Hong Kong for any pollution damage referred to in that section.

第 3 部

强制法律责任保险

12. 本部的适用范围

- (1) 本部适用于总吨位超过 1000 吨的船舶，但不适用于仅在内河航限内作业的本地船只。
- (2) 在第 (1) 款中——
“内河航限”(river trade limits)的涵义与《船舶及港口管制条例》(第 313 章)第 2 条中该词的涵义相同；
“本地船只”(local vessel)的涵义与《商船(本地船只)条例》(第 548 章)第 2 条中该词的涵义相同。

13. 强制就污染损害的法律赔偿责任投保

- (1) 除第 (3) 款另有规定外，除非一份符合以下说明的证书正属有效，否则任何船舶不得进入或离开香港水域——
 - (a) 符合《燃油公约》第 7 条第 2 及 4 段的规定；及
 - (b) 证明一份符合该公约第 7 条规定的保险合约或其他保证合约正就该船舶有效。
- (2) 第 (1) 款所规定的证书须由主管当局发出。
- (3) 如一份指明证书正就由某国家拥有的船舶而有效，该船舶可在没有第 (1) 款所规定的证书的情况下，进入或离开香港水域。
- (4) 如第 (1) 款遭违反，有关船舶的船长及注册持有人均属犯罪——
 - (a) 一经循公诉程序定罪，可处罚款 \$500,000；或
 - (b) 一经循简易程序定罪，可处第 6 级罚款。
- (5) 在本条中——

PART 3

COMPULSORY INSURANCE OF LIABILITY

12. Application of this Part

- (1) This Part applies to a ship having a gross tonnage of more than 1000, but does not apply to a local vessel that operates exclusively within the river trade limits.
- (2) In subsection (1)—
“local vessel”(本地船只) has the same meaning as in section 2 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548);
“river trade limits”(内河航限) has the same meaning as in section 2 of the Shipping and Port Control Ordinance (Cap. 313).

13. Compulsory insurance against liability for pollution damage

- (1) Subject to subsection (3), a ship is not allowed to enter or leave the waters of Hong Kong unless there is in force a certificate—
 - (a) complying with the requirements in paragraphs 2 and 4 of Article 7 of the Bunker Oil Convention; and
 - (b) certifying that there is in force in respect of the ship a contract of insurance or other security satisfying the requirements of Article 7 of the Convention.
- (2) A certificate required under subsection (1) must be issued by a competent authority.
- (3) A ship that is owned by a state may enter or leave the waters of Hong Kong without a certificate required under subsection (1), if there is in force in respect of the ship a specified certificate.

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- “主管当局”(competent authority) ——
- (a) 就在香港注册的船舶而言，指 ——
 - (i) 处长；或
 - (ii) 获授权人；
 - (b) 就在任何其他《燃油公约》适用地注册的船舶而言，指 ——
 - (i) 该地政府；或
 - (ii) 获该地政府授权的人；及
 - (c) 就任何其他船舶而言，指 ——
 - (i) 处长；
 - (ii) 获授权人；
 - (iii) 香港以外的《燃油公约》适用地的政府；或
 - (iv) 获香港以外的《燃油公约》适用地的政府授权的人；
- “指明证书”(specified certificate) 就由某国家拥有的船舶而言，指该国家所发出并证明以下事项的证书 ——
- (a) 该船舶由该国家拥有；及
 - (b) 《燃油公约》第 1 条所界定的污染损害的法律責任，将会根据该公约第 7 条第 1 段厘定的限额履行。

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- (4) If subsection (1) is contravened, the master and the registered owner of the ship each commits an offence and is liable—
 - (a) on conviction on indictment to a fine of \$500,000; or
 - (b) on summary conviction to a fine at level 6.
- (5) In this section—

“competent authority”(主管当局) means—

 - (a) in relation to a ship registered in Hong Kong—
 - (i) the Director; or
 - (ii) an authorized person;
 - (b) in relation to a ship registered in any other Bunker Oil Convention place—
 - (i) the government of that other place; or
 - (ii) a person authorized by the government of that other place; and
 - (c) in relation to any other ship—
 - (i) the Director;
 - (ii) an authorized person;
 - (iii) the government of a Bunker Oil Convention place other than Hong Kong; or
 - (iv) a person authorized by the government of a Bunker Oil Convention place other than Hong Kong;

“specified certificate”(指明证书), in relation to a ship owned by a state, means a certificate issued by the state and certifying that—

 - (a) the ship is owned by the state; and
 - (b) the liability for pollution damage as defined in Article 1 of the Bunker Oil Convention will be met up to the limit determined under paragraph 1 of Article 7 of the Convention.

14. 船舶的船长于船舶上存放保险证书或指明证书的责任

- (1) 任何船舶(在香港注册的船舶除外)的船长,须确保正就该船舶有效的保险证书或指明证书(视情况所需而定),于该船舶在香港水域内的任何时间,均存放在该船舶上。
- (2) 在香港注册的船舶的船长,须确保正就该船舶有效的保险证书或指明证书(视情况所需而定),于任何时间均存放在该船舶上,不论该船舶是否在香港水域内。
- (3) 凡执法人员为执行根据本条例具有的职能而作出要求,在香港水域内的船舶的船长,须出示第(1)款提述的保险证书或指明证书,以供查阅。
- (4) 如在香港注册的船舶是在任何其他《燃油公约》适用地的水域内,凡获该地政府为查阅保险证书或指明证书的目的而妥为授权的人作出要求,该船舶的船长须出示第(2)款提述的保险证书或指明证书,以供查阅。
- (5) 任何人违反第(1)、(2)、(3)或(4)款,即属犯罪,一经定罪,可处第3级罚款。
- (6) 在以下情况下,本条并不就某船舶而适用——
 - (a) 一份保险证书或指明证书正就该船舶有效;
 - (b) 国际海事组织秘书长已根据《燃油公约》第7条第13段获通知,有关证书有以电子方式保存的纪录证明其存在;及
 - (c) 该纪录可供处长取览。

14. Duty of masters of ships to keep insurance certificates or specified certificates on ships

- (1) The master of a ship, other than a ship registered in Hong Kong, must ensure that an insurance certificate or a specified certificate (as the case requires) that is in force in respect of the ship is kept at all times on the ship when the ship is within the waters of Hong Kong.
- (2) The master of a ship registered in Hong Kong must ensure that an insurance certificate or a specified certificate (as the case requires) that is in force in respect of the ship is kept at all times on the ship, whether or not the ship is within the waters of Hong Kong.
- (3) The master of a ship within the waters of Hong Kong must produce for inspection, on request by an enforcement officer in the performance of their functions under this Ordinance, the insurance certificate or the specified certificate referred to in subsection (1).
- (4) If a ship registered in Hong Kong is within the waters of any other Bunker Oil Convention place, the master of the ship must produce for inspection, on request by a person duly authorized for that purpose by the government of that other place, the insurance certificate or the specified certificate referred to in subsection (2).
- (5) A person who contravenes subsection (1), (2), (3) or (4) commits an offence and is liable on conviction to a fine at level 3.
- (6) This section does not apply in relation to a ship if—
 - (a) there is in force in respect of the ship an insurance certificate or a specified certificate;
 - (b) the Secretary-General of the International Maritime Organization has been notified under paragraph 13

15. 申请保险证书等

- (1) 在香港注册的船舶的船东，或任何其他船舶(在任何其他《燃油公约》适用地注册的船舶除外)的船东，可就该船舶向处长或获授权人申请保险证书。
- (2) 有关申请须——
 - (a) 以书面提出；
 - (b) 符合处长指明的格式；及
 - (c) 附有——
 - (i) 关乎该船舶的保险合约或其他保证合约；及
 - (ii) 处长或获授权人为考虑该申请而合理地要求的任何文件或资料。

16. 处长或获授权人发出保险证书的权力等

- (1) 如处长或获授权人信纳有关的船舶符合第(2)款所列的条件，处长或获授权人可应根据第15条提出的申请，在申请费用缴付后，就该船舶发出保险证书。
- (2) 凡保险证书是为某期间发出的，有关条件为在整段该期间内，将会有符合《燃油公约》第7条第1及6段规定的保险合约或其他保证合约，就有关船舶而有效。
- (3) 处长或获授权人如认为就以下事宜存在疑点，可拒绝就某船舶发出保险证书——

of Article 7 of the Bunker Oil Convention of the maintenance of a record in electronic form that attests to the existence of the certificate; and

- (c) the record is accessible to the Director.

15. Application for insurance certificates etc.

- (1) The shipowner of a ship registered in Hong Kong or of any other ship, other than a ship registered in any other Bunker Oil Convention place, may apply to the Director or an authorized person for an insurance certificate for the ship.
- (2) The application must—
 - (a) be made in writing;
 - (b) be in a form specified by the Director; and
 - (c) be accompanied by—
 - (i) a contract of insurance or other security relating to the ship; and
 - (ii) any document or information that the Director or the authorized person may reasonably require for the purpose of considering the application.

16. Power of Director or authorized persons to issue insurance certificates etc.

- (1) If, on an application made under section 15 and on payment of the application fee, the Director or the authorized person is satisfied that the condition in subsection (2) is fulfilled, the Director or the authorized person may issue an insurance certificate for the ship.
- (2) The condition is that there will be in force in respect of the ship, throughout the period for which the insurance certificate is to be issued, a contract of insurance or other security

- (a) 提供保险或其他保证的人，是否有能力履行该人在该项保险或保证之下的义务；或
- (b) 该项保险或保证，会否符合《燃油公约》第 7 条第 1 及 6 段的规定。
- (4) 根据第 (1) 款发出的保险证书，可受处长或获授权人施加的任何条件所规限。
- (5) 处长须备存由处长或获授权人根据本条发出的每一份证书的副本，并提供该等副本予公众查阅。

17. 取消和交出由处长或获授权人发出的保险证书

- (1) 如在根据第 16 条发出的证书就某船舶而有效的期间的任何时间，某人不再是该船舶的注册拥有人，则该证书须视为在该人不再是注册拥有人之时即遭取消。
- (2) 如在根据第 16 条发出的证书就某船舶而有效的期间的任何时间，于任何法律程序中确定该证书所关的保险合同或其他保证合约是无效的，或可视为无效的，则发证当局可取消该证书。
- (3) 如在根据第 16 条就某船舶发出证书后的任何时间，某些情况就该证书指名的某承保人或担保人而出现，以致发证当局认为就以下事宜存在疑点——
 - (a) 提供保险或其他保证的人，是否有能力履行该人在该项保险或保证之下的义务；或

- satisfying the requirements in paragraphs 1 and 6 of Article 7 of the Bunker Oil Convention.
- (3) The Director or the authorized person may refuse to issue an insurance certificate for a ship if the Director or the authorized person is of the opinion that there is doubt as to—
 - (a) whether the person providing the insurance or other security will be able to meet the person's obligations under the insurance or other security; or
 - (b) whether the insurance or other security will satisfy the requirements in paragraphs 1 and 6 of Article 7 of the Bunker Oil Convention.
 - (4) An insurance certificate issued under subsection (1) may be subject to any condition that the Director or the authorized person may impose.
 - (5) The Director must keep a copy of each certificate issued by the Director or an authorized person under this section and make it available for public inspection.

17. Cancellation and delivery up of insurance certificates issued by Director or authorized persons

- (1) If, at any time while a certificate issued under section 16 is in force in respect of a ship, a person ceases to be the registered owner of the ship, the certificate is to be treated as cancelled once the person ceases to be the registered owner.
- (2) If, at any time while a certificate issued under section 16 is in force in respect of a ship, it is established in any legal proceedings that the contract of insurance or other security to which the certificate relates is invalid or may be treated as invalid, the issuing authority may cancel the certificate.
- (3) If, at any time after a certificate is issued under section 16 in respect of a ship, any circumstances arise in relation to

- (b) 该项保险或保证，是否在所有情况下均会涵盖该船舶的船东在本条例下的法律责任，
发证当局可取消该证书。
- (4) 如根据第 16 条向某人发出的证书根据本条遭取消，该人须在合理切实可行范围内，尽快向发证当局交出该证书。
- (5) 任何人无合理辩解而违反第(4)款，即属犯罪，一经定罪，可处第 2 级罚款。
- (6) 在本条中，“发证当局”(issuing authority)——
- (a) 就处长根据第 16 条发出的证书而言，指处长；及
- (b) 就获授权人根据第 16 条发出的证书而言，指该获授权人。
- (7) 本条的实施，不影响《释义及通则条例》(第 1 章)第 46 条。
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- an insurer or guarantor named in the certificate such that the issuing authority is of the opinion that there is doubt as to—
- (a) whether the person providing the insurance or other security will be able to meet the person's obligations under the insurance or other security; or
- (b) whether the insurance or other security will cover the liability of the shipowner of the ship under this Ordinance in all circumstances,
- the issuing authority may cancel the certificate.
- (4) If a certificate issued under section 16 is cancelled under this section, the person to whom the certificate is issued must as soon as reasonably practicable deliver up the certificate to the issuing authority.
- (5) A person who, without reasonable excuse, contravenes subsection (4) commits an offence and is liable on conviction to a fine at level 2.
- (6) In this section, “issuing authority” (发证当局), in relation to a certificate issued under section 16, means—
- (a) if the certificate is issued by the Director, the Director; and
- (b) if the certificate is issued by an authorized person, the authorized person.
- (7) This section does not operate so as to affect section 46 of the Interpretation and General Clauses Ordinance (Cap. 1).
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第 4 部

香港法院就强制执行申索及在香港强制执行其他地方的法院的判决的司法管辖权等

18. 香港法院强制执行因在香港及任何其他《燃油公约》适用地的污染损害而产生的申索的司法管辖权
- (1) 为施行第 2 部，如因某事故而在香港造成污染损害，则可在法庭提起诉讼，以强制执行因该项污染损害而产生的申索。
 - (2) 为施行第 2 部，如因某事故而在香港以外的某《燃油公约》适用地造成污染损害，任何人不得在香港的任何法院提起诉讼，以强制执行因该项污染损害而产生的申索。
 - (3) 纵使第 (2) 款另有规定，如有关事故亦在香港引致任何污染损害，则可在法庭强制执行因该项污染损害而产生的申索。
19. 《燃油公约》国接受法庭的司法管辖权
- (1) 为在法庭提起的根据第 2 部强制执行申索的法律程序的目的——
 - (a) 《燃油公约》国视为已接受法庭的司法管辖权；及
 - (b) 法院规则可就该等法律程序的提起及进行方式，作出规定。

PART 4

JURISDICTION OF HONG KONG COURTS TO ENFORCE CLAIMS AND ENFORCEMENT IN HONG KONG OF JUDGMENTS GIVEN BY COURTS OF OTHER PLACES, ETC.

18. Jurisdiction of Hong Kong courts to enforce claims arising from pollution damage in Hong Kong and in any other Bunker Oil Convention places
- (1) For the purposes of Part 2, if as a result of an incident, any pollution damage is caused in Hong Kong, an action may be brought in the Court to enforce a claim arising from the pollution damage.
 - (2) For the purposes of Part 2, if as a result of an incident, any pollution damage is caused in a Bunker Oil Convention place other than Hong Kong, no action may be brought in any court of Hong Kong to enforce a claim arising from the pollution damage.
 - (3) Despite subsection (2), a claim arising from the pollution damage may be enforced in the Court if the incident also results in any pollution damage in Hong Kong.
19. Submission of Bunker Oil Convention States to jurisdiction of Court
- (1) For the purposes of any legal proceedings brought in the Court to enforce a claim under Part 2—
 - (a) a Bunker Oil Convention State is to be treated as having submitted to the jurisdiction of the Court; and

- (2) 第 (1) 款不得解释为授权发出针对某国家的财产的执行令状。
- (3) 在本条中,“《燃油公约》国”(Bunker Oil Convention State)指属《燃油公约》的缔约方的国家。

20. 法律程序的时限等

除非根据第 2 部强制执行申索的法律程序在以下限期内展开,否则不得提出该等法律程序——

- (a) 有关申索权产生后的 3 年;及
- (b) (i) 造成有关污染损害的事故发生后的 6 年;或
- (ii) 如该事故由同一肇因的一系列事件组成,该等事件中首宗事件发生后的 6 年。

21. 强制执行外地判决

- (1) 《外地判决(交互强制执行)条例》(第 319 章)(第 3、5(2)、6(2)及(3)、9、10、11、12 及 13 条除外)适用于符合以下说明的判决:该判决于第 2 部生效当日或之后,由某《燃油公约》适用地(中华人民共和国国内的地方除外)的法院作出,以强制执行关于根据相应于第 5 条的任何法律而招致的法律责任的申索。
- (2) 就第 (1) 款而言,《外地判决(交互强制执行)条例》(第 319 章)第 4(1)及 6(1)条中对“本条例条文适用的判决”及第 8 条中对“本条例条文适用的外地判决”的提述,包括该款适用的判决。
- (3) 第 (1) 款只在以下情况下适用——

- (b) rules of court may provide for the manner in which those proceedings are to be commenced and carried on.
- (2) Subsection (1) is not to be construed as authorizing the issue of execution against the property of a state.
- (3) In this section, “Bunker Oil Convention State” (《燃油公约》国) means a state that is a party to the Bunker Oil Convention.

20. Time limit for legal proceedings etc.

No legal proceedings to enforce a claim under Part 2 may be instituted unless the proceedings are commenced—

- (a) not later than 3 years after the claim arises; and
- (b) not later than 6 years after—
- (i) the incident that causes the pollution damage; or
- (ii) if the incident consists of a series of occurrences having the same origin, the first of those occurrences.

21. Enforcement of foreign judgments

- (1) The Foreign Judgments (Reciprocal Enforcement) Ordinance (Cap. 319), except sections 3, 5(2), 6(2) and (3), 9, 10, 11, 12 and 13, applies to a judgment given on or after the commencement of Part 2 by a court of a Bunker Oil Convention place, other than a place in the People’s Republic of China, to enforce a claim in respect of a liability incurred under any law corresponding to section 5.
- (2) For the purposes of subsection (1), a reference to “a judgment to which the provisions of this Ordinance apply” in sections 4(1), 6(1) and 8 of the Foreign Judgments (Reciprocal Enforcement) Ordinance (Cap. 319) includes a judgment to which that subsection applies.

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- (a) 有关判决对判决各方而言，属最终及不可推翻的判决；及
 - (b) 该判决命令缴付一笔款项，而该等款项既非就税款或类似性质的其他收费而缴付，亦非就罚款或其他罚则而缴付。
- (4) 纵使在作出有关判决的法院所在的地方的任何法院中，针对该判决的上诉仍未了结，或仍有可能针对该判决提出上诉，该判决对判决各方而言，仍属最终及不可推翻。

22. 局限可在香港强制执行的判决(香港法院的判决除外)的数额

- (1) 如在第 2 部生效当日或之后——
- (a) 一个并非《燃油公约》适用地的地方的法院，就该地方关于《燃油公约》适用的任何污染损害的法律任作出判决；而
 - (b) 根据任何关乎承认及强制执行在香港以外地方作出的判决的香港法律，该判决在香港可获承认，或可在香港强制执行，
- 则纵使该法律或会另作规定，该判决只可在《商船(限制船东责任)条例》(第 434 章)第 III 部所订明的责任限额内，获香港法院承认或强制执行。
- (2) 只有在有关的法律责任是由以下人士招致的情况下，第 (1) 款方适用——
- (a) 船舶的船东；或
 - (b) 有权根据《商船(限制船东责任)条例》(第 434 章)第 III 部限制本身的法律责任的人(船舶的船东除外)。

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- (3) Subsection (1) applies only if—
- (a) the judgment is final and conclusive between the parties to it; and
 - (b) the judgment orders the payment of a sum of money, other than a sum payable in respect of taxes or other charges of a like nature or in respect of a fine or other penalty.
- (4) A judgment is final and conclusive between the parties to it, despite the fact that an appeal is pending against it, or that it may still be subject to appeal, in any court of the place in which the court that gives the judgment is situated.

22. Limitation on amount of judgment (other than Hong Kong court judgment) enforceable in Hong Kong

- (1) If, on or after the commencement of Part 2—
- (a) a court of a place, other than a Bunker Oil Convention place, gives a judgment in respect of any liability in that place for any pollution damage in relation to which the Bunker Oil Convention applies; and
 - (b) the judgment may be recognized or enforced in Hong Kong under any law of Hong Kong relating to recognition and enforcement of judgments given in a place outside Hong Kong,
- then despite the fact that that law may provide otherwise, the judgment may be recognized or enforced by a court of Hong Kong only up to the limit of liability prescribed in Part III of the Merchant Shipping (Limitation of Shipowners Liability) Ordinance (Cap. 434).
- (2) Subsection (1) applies only if the liability is incurred by—
- (a) the shipowner of a ship; or

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- (b) a person, other than the shipowner of a ship, who is entitled to limit their liability under Part III of the Merchant Shipping (Limitation of Shipowners Liability) Ordinance (Cap. 434).
-

第 5 部

杂项

23. 处长可授予豁免

- (1) 处长可在个别个案中，以书面豁免任何人或船舶，使其不受第 13 或 14 条的任何条文所规限。
- (2) 根据本条授予的豁免，可受处长施加的任何条件所规限。

24. 就处长等的决定作出通知

- (1) 如处长或获授权人决定拒绝根据第 16 条发出保险证书，他须藉向申请人送达书面通知，告知该申请人该决定及决定的理由。
- (2) 如处长或获授权人决定根据第 17 条取消某保险证书，他须藉向该保险证书的持有人送达书面通知，告知该持有人该决定及决定的理由。
- (3) 如处长决定拒绝根据第 23 条授予豁免，他须藉向寻求该豁免的人送达书面通知，告知该人该决定及决定的理由。

25. 处长授权若干人士为获授权人的权力

- (1) 处长可授权公职人员以外的任何人为获授权人。
- (2) 获授权人并非特区政府的代理人或雇员。

PART 5

MISCELLANEOUS

23. Director may grant exemptions

- (1) The Director may, in a particular case, exempt in writing any person or ship from the application of any provision of section 13 or 14.
- (2) An exemption under this section may be granted subject to any condition that the Director may impose.

24. Notification of decisions of Director etc.

- (1) If the Director or an authorized person decides to refuse to issue an insurance certificate under section 16, the Director or the authorized person must, by notice in writing served on the applicant, inform the applicant of the decision and the reasons for the decision.
- (2) If the Director or an authorized person decides to cancel an insurance certificate under section 17, the Director or the authorized person must, by notice in writing served on the holder of the certificate, inform the holder of the decision and the reasons for the decision.
- (3) If the Director decides to refuse to grant an exemption under section 23, the Director must, by notice in writing served on the person by whom the exemption is sought, inform the person of the decision and the reasons for the decision.

25. Power of Director to authorize certain persons as authorized persons

- (1) The Director may authorize any person, other than a public officer, as an authorized person.

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- (3) 获授权人可厘定在向该人申请由该人发出的保险证书时须缴付的费用。

26. 处长委任任何人为执法人员的权力

为施行第 13 及 14 条，处长可委任任何海事处人员为执法人员。

27. 执法人员的权力

- (1) 为确定第 13 或 14 条是否获遵从，执法人员可行使以下一项或多于一项权力——
- (a) 登上船舶；
 - (b) 要求第 3 部适用的船舶的船长出示关乎该船舶的保险证书或指明证书，以供该人员查阅；
 - (c) 要求船舶的船长出示任何其他关乎该船舶的文件，以供该人员查阅，及要求提供任何关乎该船舶的资料；
 - (d) 抄录或复制根据 (b) 或 (c) 段向该人员出示的任何文件。
- (2) 任何人故意妨碍执法人员根据第 (1)(a) 或 (d) 款行使其权力，即属犯罪，一经定罪，可处第 3 级罚款及监禁 6 个月。
- (3) 任何人没有遵从执法人员根据第 (1)(c) 款提出的要求，即属犯罪，一经定罪，可处第 3 级罚款。

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- (2) An authorized person is not an agent or servant of the Government.
- (3) An authorized person may determine the fee to be paid on an application to the person for an insurance certificate to be issued by the person.

26. Power of Director to appoint persons to be enforcement officers

The Director may, for the purposes of sections 13 and 14, appoint any officer of the Marine Department to be an enforcement officer.

27. Powers of enforcement officers

- (1) For the purposes of ascertaining whether section 13 or 14 is complied with, an enforcement officer may exercise one or more of the following powers—
- (a) board a ship;
 - (b) request the master of a ship to which Part 3 applies to produce for the officer's inspection the insurance certificate or the specified certificate relating to the ship;
 - (c) request the master of a ship to produce for the officer's inspection any other document relating to the ship and to provide any information relating to the ship;
 - (d) make or take any copy of any document produced to the officer under paragraph (b) or (c).
- (2) A person who wilfully obstructs an enforcement officer in the exercise of the officer's power under subsection (1)(a) or (d) commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.
- (3) A person who fails to comply with a request made by an enforcement officer under subsection (1)(c) commits an offence and is liable on conviction to a fine at level 3.

(Amended E.R. 2 of 2014)

28. 提供虚假资料等

- (1) 如任何人 ——
- (a) 出示该人明知在要项上属虚假或具误导性的文件，或提供该人明知在要项上属虚假或具误导性的资料；或
 - (b) 出示该人理应知道在要项上属虚假或具误导性的文件，或提供该人理应知道在要项上属虚假或具误导性的资料，
- 充作遵从根据第 15 条施加的规定或第 27 条提出的要求，即属犯罪。
- (2) 任何人犯第 (1)(a) 或 (b) 所订罪行，一经定罪，可处第 3 级罚款及监禁 6 个月。

29. 上诉

- (1) 任何人如因以下任何决定而感到受屈，可针对该决定，向行政上诉委员会提出上诉 ——
- (a) 处长或获授权人拒绝根据第 16 条发出保险证书的决定；
 - (b) 处长或获授权人根据第 16 条施加任何条件的决定；
 - (c) 处长或获授权人根据第 17 条取消某保险证书的决定；
 - (d) 处长拒绝根据第 23 条授予豁免的决定；
 - (e) 处长根据第 23 条施加任何条件的决定。
- (2) 根据第 (1) 款提出的上诉，并不使上诉所针对的决定暂缓生效。

28. Provision of false information etc.

- (1) A person commits an offence if the person, in purported compliance with a requirement imposed under section 15 or a request made under section 27—
- (a) produces any document or provides any information that the person knows to be false or misleading in a material respect; or
 - (b) produces any document or provides any information that the person ought reasonably to have known to be false or misleading in a material respect.
- (2) A person who commits an offence under subsection (1)(a) or (b) is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

29. Appeals

- (1) A person who is aggrieved by any of the following decisions may appeal to the Administrative Appeals Board against the decision—
- (a) a decision of the Director or an authorized person to refuse to issue an insurance certificate under section 16;
 - (b) a decision of the Director or an authorized person to impose any condition under section 16;
 - (c) a decision of the Director or an authorized person to cancel an insurance certificate under section 17;
 - (d) a decision of the Director to refuse to grant an exemption under section 23;
 - (e) a decision of the Director to impose any condition under section 23.
- (2) An appeal under subsection (1) does not suspend the decision appealed against.

30. 通知等的送达

在以下情况下，根据本条例须予或准予送达或送交(不论如何描述)的通知或其他文件(不论如何描述)，须视为已妥为送达或送交——

- (a) 就处长而言，将该通知或文件——
 - (i) 注明处长为收件人，并送交至处长的主要办事处；或
 - (ii) 以注明处长为收件人的挂号邮件，按处长的主要办事处寄交处长；
- (b) 就个人而言，将该通知或文件——
 - (i) 注明该人为收件人，并以面交方式交付该人；或
 - (ii) 以注明该人为收件人的挂号邮件，按该人最后为人所知的地址寄交该人；
- (c) 就《公司条例》(第 622 章)第 2(1) 条所界定的公司而言，将该通知或文件——(由 2012 年第 28 号第 912 及 920 条修订)
 - (i) 注明该公司为收件人，并以专人交付该公司的任何人员；或
 - (ii) 留在或邮寄往该公司在香港的注册办事处；(由 2012 年第 28 号第 912 及 920 条修订)
- (d) 就不属 (c) 段描述的公司的法人团体而言，将该通知或文件——
 - (i) 注明该团体为收件人，并送交至该团体在香港营办业务的任何地方，并将之交予显然关涉管理该团体的人或显然受雇于该团体的人；或
 - (ii) 以注明该团体为收件人的挂号邮件，按该团体最后为人所知的地址寄交该团体；或
- (e) 就合伙而言，将该通知或文件——

30. Service of notice etc.

A notice or other document (however described) required or permitted to be served or sent (however described) under this Ordinance is to be regarded as having been duly served or sent if—

- (a) for the Director—
 - (i) it is addressed to the Director and delivered to the Director's principal office; or
 - (ii) it is sent to the Director by registered post addressed to the Director at the Director's principal office;
- (b) for an individual—
 - (i) it is addressed to the individual and delivered to the individual by personal service; or
 - (ii) it is sent to the individual by registered post addressed to the individual at the individual's last known address;
- (c) for a company as defined in section 2(1) of the Companies Ordinance (Cap. 622)— (Amended 28 of 2012 ss. 912 & 920)
 - (i) it is addressed to the company and delivered to any officer of the company by hand; or
 - (ii) it is left at, or sent by post to, the company's registered office in Hong Kong; (Amended 28 of 2012 ss. 912 & 920)
- (d) for a body corporate (other than a company described in paragraph (c))—
 - (i) it is addressed to the body and delivered to any place in Hong Kong at which the body carries

- (i) 注明该合伙为收件人，并送交至该合伙在香港营办业务的任何地方，并将之交予显然关涉管理该合伙的人或显然受雇于该合伙的人；或
- (ii) 以注明该合伙为收件人的挂号邮件，按该合伙最后为人所知的地址寄交该合伙。

31. 保留提起追索补偿诉讼的权利

根据本条例招致法律责任的人可就该责任向他人申索或强制执行申索的权利，并不受本条例影响。

32. 法人团体所犯的罪行

如本条例所订罪行由法人团体所犯，并已证明该罪行是——

- (a) 在该法人团体的董事、经理、秘书或其他职位相若人员，或其用意是以上述身分行事的人同意或默许下犯的；或
- (b) 由于该法人团体的董事、经理、秘书或其他职位相若人员，或其用意是以上述身分行事的人的疏忽所致，

该董事、经理、秘书、人员或该人及该法人团体同属犯该罪行，并均可因而被检控及受罚。

- on business and given to a person apparently concerned in the management of, or apparently employed by, the body; or
- (ii) it is sent to the body by registered post addressed to the body at the body's last known address; or
- (e) for a partnership—
 - (i) it is addressed to the partnership and delivered to any place in Hong Kong at which the partnership carries on business and given to a person apparently concerned in the management of, or apparently employed by, the partnership; or
 - (ii) it is sent to the partnership by registered post addressed to the partnership at the partnership's last known address.

31. Saving for recourse actions

This Ordinance does not affect any claim, or the enforcement of any claim, that a person who incurs a liability under this Ordinance may have against another person in respect of the liability.

32. Offences by bodies corporate

If a person by whom an offence under this Ordinance is committed is a body corporate, and it is proved that the offence—

- (a) was committed with the consent or connivance of a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any of those capacities; or
- (b) was due to any neglect on the part of a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any of those capacities,

33. 订立规例的权力

财政司司长可藉规例订明向处长申请由处长发出的保险证书时须缴付的费用。

33. Power to make regulations

the director, manager, secretary, officer or the person, as well as the body corporate, commits that offence and is liable to be proceeded against and punished accordingly.

The Financial Secretary may by regulations prescribe the fee to be paid on an application to the Director for an insurance certificate to be issued by the Director.

6-1
第 605 章

第 6 部
第 34 条

Part 6
Section 34

6-2
Cap. 605

第 6 部

(已失时效而略去——2014 年第 2 号编辑修订纪录)

34-40. (已失时效而略去——2014 年第 2 号编辑修订纪录)

Part 6

(Omitted as spent—E.R. 2 of 2014)

34-40. (Omitted as spent—E.R. 2 of 2014)