

Hong Kong Fleet Operation Advisory Committee

Repeal of the local legislation on the Mercantile Marine Assistance Fund Ordinance and Mercantile Marine Assistance Fund Regulations

Purpose

The purpose of this paper is to seek members' views on the proposal to repeal the Mercantile Marine Assistance Fund Ordinance (Cap. 1001) and Mercantile Marine Assistance Fund Regulations (Cap. 1001A).

Background

2. Cap. 1001 and Cap. 1001A were enacted on 13 October 1933 that was more than 90 years ago. The Mercantile Marine Assistance Fund ("fund") has been inactive since 1990 as the last Mercantile Marine Assistance Fund (MMAF) Committee meeting was held in May 1990 and the Committee has become defunct since 1 April 1996 when the last beneficiary of the fund passed away in March 1996.

3. According to Regulation 5 of Cap. 1001A, assistance shall be of 3 descriptions—

- (a) the payment, in whole or in part, of passages from Hong Kong;
- (b) regular assistance in Hong Kong;
- (c) temporary assistance in Hong Kong.

4. For item (a) above, seafarers who have been abandoned by their shipowners and were left in Hong Kong are to be provided with the financial assistance to stay in Hong Kong until the time they return home. For items (b) and (c) above, qualified seafarers of Hong Kong residents or commonwealth citizens and their families who reside in Hong Kong are to

be provided with assistance on temporary or regular basis respectively in order to relieve their hardship.

5. There is no practical need to maintain the fund nowadays for the following reasons: -

(i) Hong Kong has returned to China since 1997 and the Hong Kong SAR Government has no liability to provide support to seafarers of commonwealth citizens and their family in Hong Kong.

(ii) The Maritime Labour Convention, 2006 (MLC) which sets out seafarers' rights to decent conditions of work and helps to create conditions of fair competition for shipowners entered into force globally on 20 August 2013. The seafarers' rights and welfares being protected by MLC relevant to the nature of the MMAF include: -

(a) right to be repatriated upon completion of their working contract or on mutual agreement with the shipowner and the protection from the flag Administration if a shipowner fails to make arrangements for or to meet the cost of repatriation of seafarers who are entitled to be repatriated (MLC Standard A2.5.1 – Repatriation);

(b) right to obtain assistance in the event of their abandonment from the provision of an expeditious and effective financial security system by shipowners (the 2014 amendments to the MLC, 2006 introduced Standard A2.5.2);

(c) right to obtain assistance from the system of financial security in the compensation for contractual claims which relate to death or long-term disability of seafarers due to an occupational injury, illness or hazard as set out in the seafarers' employment agreement (Standard A4.2.1, paragraph 8, the 2014 amendments to the Code of the MLC).

(iii) The MLC has been in force in Hong Kong in December 2018 through the Merchant Shipping (Seafarers) Ordinance, Cap. 478 and its subsidiary legislations. Hong Kong seafarers have been provided with the welfare as mentioned in above items (a) to (c)

since 2018.

- (iv) Seafarers of Hong Kong residents and their family whose income is not sufficient to meet the basic need may apply for assistance from the Comprehensive Social Security Assistance Scheme, which is a welfare programme in Hong Kong, if their conditions meet the eligibility criteria.

The Proposal

6. In view of above paragraph 5 and that there has been no demand for the MMAF since 1990, the local legislation of Cap. 1001 and its subsidiary legislation, Cap. 1001A are suggested to be repealed.

Consultation

7. Members' comments on, if any, and endorsement of the proposal are hereby sought.

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