

## **Local Vessels Advisory Committee**

### **Proposal to amend Cap. 413L when the revised Cap. 413A, Cap. 413B and the amended Cap. 413D, Cap. 413E are enacted**

#### **Purpose**

1. The purpose of this paper is to seek members' views on the proposal to amend the relevant provisions in the Merchant Shipping (Prevention and Control of Pollution) (Fees) Regulation, Cap. 413L to allow the Government to recover costs for providing survey and certification services as required under the revised Merchant Shipping (Prevention of Oil Pollution) Regulations (Cap. 413A), the revised Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) Regulation (Cap. 413B), the amended Merchant Shipping (BCH Code) Regulations (Cap. 413D) and the amended Merchant Shipping (IBC Code) Regulations, Cap. 413E.

#### **Background**

2. Survey and certification services relevant to Cap. 413A, Cap. 413B, Cap. 413D and Cap. 413E provided by Government Surveyors at present are charged under Merchant Shipping (Fees) Regulations, Cap. 281F. At the time of the introduction of the Merchant Shipping (Prevention and Control of Pollution)(Fees) Regulation, Cap. 413L (the 'Fees Regulation') in 2005, the intention was for it to eventually cover all charges for services rendered under Cap. 413.

3. The Fees Regulation at present covers services provided under the Merchant Shipping (Prevention of Pollution by Sewage) Regulation (Cap. 413K) and the Merchant Shipping (Prevention of Air Pollution) Regulation (the 'Air Regulation') (Cap. 413 sub. leg), for which the latter will be enacted around May 2008.

4. The Committee is being consulted by three separate papers (LVAC Papers

Nos. x/2008, x/2008 and x/2008) on the proposals to amend Cap.413B, Cap. 413D and Cap. 413E respectively to give effect to the latest amendments adopted by IMO in respect of the revised MARPOL Annex II, the BCH Code and the IBC Code. The LVAC is not consulted on the latest amendment to Cap. 413A as it does not affect the locally certificated vessels.

### **Proposal**

5. Since the nature of survey and certification work under Cap.413A, Cap. 413B, Cap. 413D and Cap. 413E is similar to that of Cap. 413K and the Air Regulation, it is proposed that the Fees Regulation should be appropriately amended to cover such services.

6. It must be pointed out that there are no differences in the charge rates under Cap.413L and Cap.281F. A copy of the Cap. 413L is attached for members' reference.

### **Action requested**

7. Members are invited to comment and endorse the above proposal.

Marine Department  
Multi-lateral Policy Division  
29 January 2008

**Encl.** Merchant Shipping (Prevention and Control of Pollution)  
(Fees) Regulation, Cap. 413L

- **CAP 413L MERCHANT SHIPPING (PREVENTION AND CONTROL OF POLLUTION) (FEES) REGULATION**

- - Empowering section - 02/02/2007
- Section 1 - (Omitted as spent) - 02/02/2007
- Section 2 - Interpretation - 02/02/2007
- Section 3 - Fees for services within Hong Kong - 02/02/2007
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- Section 5 - Fees for services within and outside Hong Kong - 02/02/2007
- Section 6 - Additional fees for services outside office hours - 02/02/2007
- Section 7 - Fees for issue of certificates, etc. - 02/02/2007
- Section 8 - Fees where services not completed - 02/02/2007
- Section 9 - Fees payable in advance - 02/02/2007
- Section 10 - Services required for certain official purposes - 02/02/2007
- Schedule 1 - SPECIFIED SERVICES - 02/02/2007
- Schedule 2 - SPECIFIED CERTIFICATES - 02/02/2007

<b>Chapter: 413L</b>	<b>MERCHANT SHIPPING (PREVENTION AND CONTROL OF POLLUTION) (FEES) REGULATION</b>	<b>Version Date</b>	<b>02/02/2007</b>
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[Empowering section](#)

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(Cap 413, section 3(2A))

[2 February 2007] L.N. 287 of 2006

(L.N. 8 of 2005)

<b>Section Num:</b>	<b>1</b>	<b>Version Date</b>	<b>02/02/2007</b>
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**Heading**      **(Omitted as spent)**

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<b>Section Num:</b>	<b>2</b>	<b>Version Date</b>	<b>02/02/2007</b>
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**Heading**      **Interpretation**

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In this Regulation, unless the context otherwise requires-

"Government surveyor" (政府驗船師) means the person appointed by the Director to be a Government surveyor under section 4 of the Merchant Shipping (Prevention of Pollution by Sewage) Regulation (Cap 413 sub. leg. K);

"office hours" (辦公時間) means the hours between 9 a.m. and 5 p.m. on Monday to Friday inclusive and between 9 a.m. and noon on Saturday (excluding general holidays).

<b>Section</b>	<b>3</b>	<b>Version</b>	<b>02/02/2007</b>
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<b>Num:</b>		<b>Date</b>	
<b>Heading</b>	<b>Fees for services within Hong Kong</b>	<a href="#">Back to Individual Section Format</a>	

Where a service specified in Schedule 1 is carried out within Hong Kong by a Government surveyor, there shall be payable in respect of the service by each Government surveyor a fee of-

- (a) \$3270 for the first hour or part hour; and
- (b) \$1115 for each subsequent hour or part hour, during which the service by the surveyor continues.

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<b>Section Num:</b>	<b>4</b>	<b>Version Date</b>	<b>02/02/2007</b>
<b>Heading</b>	<b>Fees for services outside Hong Kong</b>	<a href="#">Back to Individual Section Format</a>	

(1) Where a service specified in Schedule 1 is carried out outside Hong Kong by a Government surveyor sent from Hong Kong, there shall be payable in respect of the service by each Government surveyor-

- (a) a fee of \$7645 for each period of 24 hours or part of it during which the surveyor is absent from Hong Kong on account of the service; and
  - (b) a fee of such amount that is, in the opinion of the Director, equivalent to the travelling and subsistence expenses of the surveyor during the period the surveyor is so absent.
- (2) The duration of a Government surveyor's absence from Hong Kong is calculated with reference to the time of departure from and arrival at Hong Kong.

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<b>Section Num:</b>	<b>5</b>	<b>Version Date</b>	<b>02/02/2007</b>
<b>Heading</b>	<b>Fees for services within and outside Hong Kong</b>	<a href="#">Back to Individual Section Format</a>	

If part of a service specified in Schedule 1 is carried out within Hong Kong by a Government surveyor, and part of the service is carried out outside Hong Kong by a Government surveyor sent from Hong Kong, the fee payable in respect of the service is the aggregate of-

- (a) the fee payable in respect of the part of the service carried out within Hong Kong by each Government surveyor, calculated in accordance with section 3; and
- (b) the fee payable in respect of the part of the service carried out outside Hong Kong by each Government surveyor, calculated in accordance with section 4.

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<b>Section Num:</b>	<b>6</b>	<b>Version Date</b>	<b>02/02/2007</b>
<b>Heading</b>	<b>Additional fees for services outside office hours</b>	<a href="#">Back to Individual Section Format</a>	

(1) Where a service specified in Schedule 1, or part of it, is carried out (whether within Hong Kong or not) by a Government surveyor outside office hours on any date, there shall be payable, in addition to the appropriate fees payable under section 3, 4 or 5, in respect of the service, or the part of the service, by each Government surveyor outside office hours-

- (a) subject to paragraph (d), if that date is a weekday (other than a Saturday), a fee of-

- (i) \$1115 for each hour or part of it between 7 a.m. and 9 a.m. or between 5 p.m. and 7 p.m. during which the service, or the part of the service, by the surveyor continues; and
- (ii) \$2215 for each hour or part of it before 7 a.m. or after 7 p.m. during which the service, or the part of the service, by the surveyor continues;
- (b) subject to paragraph (d), if that date is a Saturday, a fee of-
  - (i) \$1115 for each hour or part of it between 7 a.m. and 9 a.m. during which the service, or the part of the service, by the surveyor continues;
  - (ii) \$2215 for each hour or part of it before 7 a.m. during which the service, or the part of the service, by the surveyor continues; and
  - (iii) \$3270 for each hour or part of it between the hours from noon to midnight during which the service, or the part of the service, by the surveyor continues;
- (c) subject to paragraph (d), if that date is a Sunday, a fee of \$3270 for each hour or part of it during which the service, or the part of the service, by the surveyor continues;
- (d) if that date falls on a calendar day that is a general holiday in Hong Kong, a fee of \$3270 for each hour or part of it during which the service, or the part of the service, by the surveyor continues.
- (2) For the purposes of subsection (1), where a service, or part of it, is carried out in a place outside Hong Kong, a reference to any time or date in that subsection (except the reference to general holiday in subsection (1)(d)) is a reference to the time or date according to the local time in the place.
- (3) Subsection (1) does not apply if 3 days' notice of the requirement for the service has been given to the Director by the person requesting the service, but the Director has caused the service to be carried out outside office hours.

<b>Section Num:</b>	7	<b>Version Date</b>	02/02/2007
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**Heading**      **Fees for issue of certificates, etc.**      [Back to Individual Section Format](#)

- (1) The fee for the issue of a certificate specified in Schedule 2 is \$565.
- (2) The fee for the issue of a certified true copy of a certificate specified in Schedule 2 is \$565.
- (3) The fee for the making of any alteration to a certificate specified in Schedule 2 is \$565.

<b>Section Num:</b>	8	<b>Version Date</b>	02/02/2007
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**Heading**      **Fees where services not completed**      [Back to Individual Section Format](#)

- (1) Where-
  - (a) at the request of any person, a service specified in Schedule 1 is carried out by a Government surveyor; and
  - (b) in consequence of the act of the person, the service is abandoned before it is completed, the fee payable in respect of the service under this Regulation may be reduced at the discretion of the Director.
- (2) In exercising the discretion under subsection (1), the Director shall have regard to the nature and extent of the work involved in the service.

<b>Section Num:</b>	9	<b>Version Date</b>	02/02/2007
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**Heading**      **Fees payable in advance**      [Back to Individual Section Format](#)

(1) Subject to subsection (2), a fee payable in respect of a service specified in Schedule 1, or a certificate specified in Schedule 2, under this Regulation shall be paid to the Director before the service is carried out or the certificate (or the certified true copy of the certificate) is issued or the certificate is altered.

(2) The Director may, in any particular case, permit the whole, or any part, of any fee payable under this Regulation to be paid in arrears, subject to such conditions as to security or time for payment as the Director thinks fit.

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<b>Section Num:</b>	<b>10</b>	<b>Version Date</b>	<b>02/02/2007</b>
<b>Heading</b>	<b>Services required for certain official purposes</b>	<a href="#">Back to Individual Section Format</a>	

(1) Notwithstanding sections 3, 4 and 6, no fee shall be payable in respect of any service specified in Schedule 1 that is carried out at the request of-

- (a) the Central People's Government; or
- (b) any department of the Government of Hong Kong, for official purposes.

(2) Notwithstanding section 7(2), no fee shall be payable in respect of the issue of a certified true copy of a certificate specified in Schedule 2 that is issued at the request of-

- (a) the Central People's Government;
- (b) any department of the Government of Hong Kong; or
- (c) the representative of a government other than the Government of Hong Kong, when the copy is required for official purposes.

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<b>Schedule Num:</b>	<b>1</b>	<b>Version Date</b>	<b>02/02/2007</b>
<b>Heading</b>	<b>SPECIFIED SERVICES</b>	<a href="#">Back to Individual Section Format</a>	

[sections 3, 4, 5, 6, 8, 9 & 10]

1. An initial survey, renewal survey or additional survey within the meaning of the Merchant Shipping (Prevention of Pollution by Sewage) Regulation (Cap 413 sub. leg. K).

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<b>Schedule Num:</b>	<b>2</b>	<b>Version Date</b>	<b>02/02/2007</b>
<b>Heading</b>	<b>SPECIFIED CERTIFICATES</b>	<a href="#">Back to Individual Section Format</a>	

[sections 7, 9 & 10]

1. An International Sewage Pollution Prevention Certificate issued by the Director under the Merchant Shipping (Prevention of Pollution by Sewage) Regulation (Cap 413 sub. leg. K).