

LN159-E

Merchant Shipping (Local Vessels) (Ferry
Terminals) Regulation
(Made under section 89 of the Merchant Shipping
(Local Vessels) Ordinance (Cap. 548))

PART 1

Preliminary

1. Commencement

This Regulation shall come into operation on the day appointed for the commencement of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548).

2. Interpretation

In this Regulation, unless the context otherwise requires---

"authorized officer" (獲授權人員) means a public officer authorized in writing by the Director for the purposes of this Regulation and a police officer on duty within a terminal;

"ferry vessel" (渡輪船隻) means a local vessel which plies regularly from a terminal for the conveyance of passengers---

(a) between Hong Kong and Macau; or

(b) between Hong Kong and any other place in China,
whether or not the vessel also carries cargo;

"pass" (通行證) means a pass issued under section 12 or a replacement pass issued under section 24;

"pass holder" (通行證持有人、通行證的持有人) means---

(a) in relation to a pool pass, the authorized officer or the person to whom it is issued; and

(b) in relation to a standard pass or a temporary pass, the person in whose name the pass is issued;

"pool pass" (共用通行證) means a pool pass issued under section 12;

"prescribed fee" (訂明費用), in relation to any matter, means the fee prescribed by regulations made under section 88 of the Ordinance in relation to that matter;

"restricted area" (限制區域) means an area deemed to be a restricted area for the purposes of this Regulation under section 10;

"standard pass" (標準通行證) means a standard restricted area pass issued under section 12(1)(b);

"temporary pass" (臨時通行證) means a temporary restricted area pass issued under section 12(1)(c);

"terminal" (終點碼頭) means a terminal deemed to be established for the purposes of

this Regulation under section 3;

"vehicle" (車輛) means a vehicle intended or adapted for use on roads.

3. Establishment of terminals

(1) A terminal the boundaries of which are declared under regulation 3 of the Shipping and Port Control (Ferry Terminals) Regulations (Cap. 313 sub. leg.) is deemed to be established for the purposes of this Regulation.

(2) A terminal shall include---

(a) all land and water within the boundaries of the terminal; and

(b) any building, street, pier or pontoon within the said boundaries.

PART 2

Control of Terminals Generally

4. Terminals under control of Director

(1) A terminal shall be under the control of the Director.

(2) Except with the permission of the Director, no local vessel shall enter a terminal.

(3) The Director may close the whole or a part of a terminal for such period as he may specify.

(4) The Director may, by notice or sign exhibited in a terminal, prohibit access to the whole or a part of the terminal, at such time as he may specify, by a local vessel or class of local vessels.

5. Vessels to use terminals

(1) A ferry vessel shall berth at a terminal unless the Director otherwise directs.

(2) Except with the permission of the Director---

(a) no person shall embark on or disembark from; and

(b) no cargo shall be loaded on or discharged from,

a local vessel within a terminal other than at a place in the terminal which is allocated to the local vessel for that purpose by the Director.

6. Owners, agents or coxswains to comply with requirements of Director

(1) The owner, his agent or the coxswain of a local vessel in a terminal or entering or leaving a terminal shall comply with the directions given to him by the Director.

(2) Without prejudice to the generality of subsection (1), the Director may direct the owner, his agent or the coxswain of a local vessel in a terminal---

(a) to anchor or secure the local vessel at any place in the terminal;

(b) to move the local vessel from any place in the terminal to any other place therein;

(c) to remove the local vessel from the terminal for such period as the Director may specify.

(3) The owner, his agent or the coxswain of a local vessel navigating within or entering or leaving a terminal shall, so far as practicable, have regard to the information or advice conveyed to him by an authorized officer.

7. Control of arrivals and departures of ferry vessels

The Director may, by notice in writing served on the owner, his agent or the coxswain of a ferry vessel, specify the time of arrival at, or departure from, a terminal of the ferry vessel, either generally in respect of a series of arrivals or departures, or in respect of a particular arrival or departure, and the owner, his agent or the coxswain shall comply with the notice.

8. Returns by owners, agents or coxswains

The owner, his agent or the coxswain of a ferry vessel shall, at such times as the Director may require, submit to the Director a return showing, in respect of such period as may be specified by the Director, such particulars as the Director may require---

- (a) of each voyage made by the vessel;
- (b) of the cargo carried on each voyage of the vessel;
- (c) of the number of passengers carried on each voyage of the ferry vessel, and the category of the passengers for the purposes of section 29;
- (d) of the number of persons embarking and disembarking at each port of call during each voyage of the ferry vessel; and
- (e) relating to the manning or operation of the ferry vessel.

9. Embarkation and disembarkation

Except with the permission of the Director, no person shall embark on, or disembark from, a local vessel in a terminal---

- (a) whilst the local vessel is in motion;
- (b) otherwise than by an authorized gangway; or
- (c) by means of any other vessel.

PART 3

Restricted Areas

10. Restricted areas

An area declared under regulation 11 of the Shipping and Port Control (Ferry Terminals) Regulations (Cap. 313 sub. leg.) to be a restricted area is deemed to be a restricted area for the purposes of this Regulation.

11. Prohibition of entry, etc. to restricted area without valid pass

(1) Subject to this Regulation and the Shipping and Port Control (Ferry Terminals) Regulations (Cap. 313 sub. leg.), no person shall enter or remain in a restricted area.

(2) Notwithstanding regulation 12 of the Shipping and Port Control (Ferry

Terminals) Regulations (Cap. 313 sub. leg.), a person may enter or remain in a restricted area if he has on his person a valid pass issued to him in respect of that restricted area or is being escorted by an authorized officer having the authority of the Director to escort persons into that restricted area.

12. Issue of passes and grounds for refusal

(1) The Director may issue---

(a) a pool pass---

(i) to an authorized officer; or

(ii) to any other person where he is satisfied that the person requires immediate access to a restricted area by reason of the nature of the occupation or employment of the person;

(b) a standard pass to a person referred to in subsection (3) on application being made under section 13; or

(c) a temporary pass to a person referred to in subsection (3) on application being made under section 13.

(2) A pass shall be in such form and subject to such conditions as may be specified by the Director and may, in the discretion of the Director, give authority to an authorized officer to escort a person into a restricted area for which the pass is valid.

(3) The Director may issue a standard pass or a temporary pass to a person only if the Director is satisfied that---

(a) the person is a member of the crew of a ferry vessel permitted to use the terminal concerned; or

(b) the person requires frequent and regular access to the restricted area concerned by reason of the nature of his occupation or employment.

(4) The Director shall refuse to issue a pass if it appears to him that---

(a) the person requiring the pass is for any reason relating to or connected with the security of the terminal concerned not a fit person to have access to the restricted area; or

(b) access to the restricted area concerned is unnecessary by reason of the nature of the occupation or employment of the person requiring the pass.

13. Application for passes

An application for the issue of a standard pass or a temporary pass shall be---

(a) made by a person requiring the pass or his employer on his behalf;

(b) made to the Director in the form specified by him; and

(c) accompanied by---

(i) the documents specified by the Director;

(ii) such other particulars as may be required by the Director; and

(iii) in the case of an application for a standard pass by a person who is not an authorized officer, the prescribed fee.

14. General provisions as to passes

(1) A pass shall not entitle its holder to embark on a ferry vessel as a passenger.

(2) A pass holder shall not transfer his pass to any other person.

(3) A pass holder shall produce his pass for examination on entering or leaving the terminal in respect of which the pass is issued, and at any time while he is in the terminal if so required by the Director.

15. Contents of passes and duration of validity thereof

A pass shall---

(a) if so required by the Director, bear sufficient means of identification of the pass holder;

(b) specify the restricted area or areas in respect of which it is issued;

(c) indicate the period for which it is issued which---

(i) in the case of a pool pass or a standard pass, shall be for such period as may be specified therein;

(ii) in the case of a temporary pass, shall not be longer than 3 months; and

(d) cease to be valid---

(i) on the expiration of the period for which it was issued;

(ii) upon its cancellation under section 16;

(iii) where the pass holder ceases to be employed by the person who was his employer at the date of the issue of the pass; or

(iv) upon a demand by the Director under section 20 for the pass holder to surrender his pass.

16. Cancellation of passes

The Director---

(a) shall cancel a pass if it appears to him that---

(i) in the case of a pass issued under section 12(3)(a), the pass holder has ceased to be a member of the crew of the ferry vessel permitted to use the terminal concerned;

(ii) the pass holder is, for any reason relating to or connected with the security of the terminal concerned, not a fit person to have access to the restricted area; or

(iii) access to the restricted area concerned is no longer necessary by reason of the nature of the occupation or employment of the pass holder; and

(b) may cancel a pass---

(i) on the ground that a condition subject to which it was issued has been contravened;

(ii) on the ground that the pass holder or his employer has contravened a

provision of this Regulation; or

(iii) where he is satisfied that the pass has been lost, destroyed or defaced.

17. Procedure on cancellation of pass

(1) Where the Director cancels a pass under section 16, he shall notify the pass holder and, if he thinks fit, the employer (if any) of the pass holder, accordingly.

(2) A pass holder, upon receipt of a notice under subsection (1), shall, unless the notice relates to a pass which has been lost or destroyed, forthwith surrender his pass to---

(a) the Director;

(b) an authorized officer specified in the notice for the purpose; or

(c) the employer of the pass holder if specified in the notice for the purpose, as the case may be.

(3) An employer to whom a pass has been surrendered by virtue of a notice under subsection (1) shall forthwith surrender that pass to the Director or an authorized officer specified in the notice.

18. Action by employer where pass no longer required

The employer of a pass holder shall---

(a) if the nature of the employment of the pass holder no longer requires that he has access to a restricted area specified in his pass; or

(b) if the pass holder ceases, for any reason, to be employed by the employer, without delay---

(c) inform the Director accordingly;

(d) take possession of the pass from the pass holder; and

(e) surrender the pass to the Director.

19. Pass to be surrendered on cessation of employment

A pass holder who ceases to be employed by the person who was his employer at the date of the issue of the pass shall, immediately on the cessation of his employment, surrender his pass to that person.

20. Pass to be surrendered on demand

The Director may demand a pass holder to surrender his pass to the Director, and the pass holder shall forthwith comply with the demand.

21. Pass to be worn on outer clothing

A pass holder shall, when entering, remaining in or departing from a restricted area---

(a) wear the pass affixed in a prominent position on his outer clothing;

(b) comply with the conditions subject to which the pass is issued;

(c) comply with all reasonable directions given to him by an authorized officer;

(d) if the pass is a pool pass, carry on his person---

(i) an identity card issued to him under the Registration of Persons Ordinance (Cap. 177); or

(ii) a warrant card, valid travel document or other means of identification as may be approved by the Director.

22. Exemption for bona fide passengers

(1) Subject to subsection (2), section 11(1) shall not apply to a bona fide passenger who---

(a) is in the course of passage through a restricted area---

(i) having disembarked from a ferry vessel;

(ii) for the purpose of embarking on a ferry vessel of which he is a ferry passenger; or

(iii) having disembarked from, or for the purpose of embarking on, a helicopter of which he is a passenger; or

(b) is awaiting an onward ferry voyage in an area reserved for transit or transfer passengers which is within a restricted area.

(2) A passenger shall not, by virtue of subsection (1), be exempt from the prohibition under section 11(1) unless---

(a) being a departing passenger of a ferry vessel, he is in possession of a valid travel document and a valid passenger ticket issued by the owner, his agent or the coxswain of the vessel for passage on the vessel;

(b) being a departing passenger of a helicopter, he is in possession of a valid travel document and a valid passenger ticket issued by or on behalf of the owner, operator or pilot of the helicopter for passage on it; or

(c) being an arriving passenger or a transit or transfer passenger, he is in possession of a valid travel document.

(3) A passenger ticket shall be in a form approved by the Director.

23. Lost pass

(1) If a pass has been lost the pass holder shall, without delay, report in writing the loss and the related circumstances to his employer (if any) or, where the pass holder has no employer or is himself an employer, to the Director.

(2) Where a report has been received by an employer as to the loss of a pass and the related circumstances, he shall, without delay, report in writing the loss and the related circumstances to the Director.

(3) A person who finds a pass shall, without delay, deliver it to the Director or to a police officer.

24. Issue of replacement pass

Where a pass has been lost, destroyed or defaced, the person to whom the pass had been issued or his employer may apply to the Director for the issue of a replacement

pass and the Director, upon being satisfied as to the loss, destruction or defacement, may, upon payment of the prescribed fee, issue to the person a replacement pass which shall replace the pass which has been lost, destroyed or defaced.

PART 4

Miscellaneous

25. Permission of coxswain to board or load cargo

(1) Subject to subsection (4), no person shall board, or load a vehicle or other cargo on, a local vessel except with the permission of the coxswain of the vessel.

(2) No person shall travel, or bring a vehicle or other cargo, on board a ferry vessel after being warned by the Director that the ferry vessel contains its full complement of passengers, vehicles or other cargo.

(3) No person shall, within a terminal, travel or bring a vehicle or other cargo, on board a local vessel other than a ferry vessel after being warned by the Director that the vessel contains its full complement of passengers, vehicles or other cargo.

(4) Subsection (1) shall not apply to an authorized officer.

26. Permission to remain on a ferry vessel

Subject to section 33 of the Immigration Ordinance (Cap. 115), no person shall remain on board a ferry vessel in a terminal except with the permission of the Director.

27. General prohibitions

No person shall, whilst within a terminal or on a local vessel within a terminal---

(a) throw, deposit, leave or drop litter, paper or rubbish, except in bins or containers provided for the purpose;

(b) throw, deposit, leave or drop anything capable of causing injury to person or damage to property;

(c) throw any life buoy or equipment from the terminal or local vessel, except in a case of emergency;

(d) open or remove, or climb over, any wall, fence railing, barrier, gate or post erected in the terminal;

(e) beg;

(f) fish.

28. Berthing fee

(1) Subject to subsection (2), the owner, his agent or the coxswain of a local vessel which berths in a terminal shall pay the prescribed fee for berthing in respect of the local vessel.

(2) No prescribed fee for berthing shall be payable in respect of the following local vessels---

- (a) a cargo lighter or junk working cargo to or from a terminal or to or from a vessel moored alongside a terminal;
- (b) a fresh water lighter, barge or other local vessel supplying fresh water to a vessel in a terminal;
- (c) a fuelling lighter or barge supplying fuel to a vessel or to a storage tank in a terminal;
- (d) a local vessel used to transfer passengers to or from a ferry vessel in a terminal;
- (e) any other local vessel or class of local vessels which the Director may exempt.

(3) Subject to subsection (4), the prescribed fee for berthing shall be paid in respect of each berthing of a local vessel.

(4) Where a local vessel leaves a berth in a terminal in compliance with a direction under section 6(2)(b) or (c), no fee shall be chargeable on the reberthing of the local vessel.

(5) Except with the permission in writing of the Director, no local vessel shall remain at a berth in a terminal for more than 24 hours.

(6) For the purpose of this section, a local vessel berths in a terminal when it comes alongside, or is in any way secured to, any part of the terminal.

(7) In this section---

"ferry vessel" (渡輪船隻) means a ferry vessel defined in section 2 of this Regulation or regulation 2 of the Shipping and Port Control (Ferry Terminals) Regulations (Cap. 313 sub. leg.).

29. Embarkation fee

The owner of a ferry vessel or his agent shall pay the prescribed fee for passenger embarkation in respect of each passenger embarking on the vessel at a terminal.

30. Offences and penalties

(1) If without reasonable excuse section 4(2) or 5 is contravened, the coxswain of the local vessel commits an offence.

(2) If without reasonable excuse a notice or sign exhibited under section 4(4) is contravened, the coxswain of the local vessel commits an offence.

(3) The owner, his agent or the coxswain of a local vessel who, without reasonable excuse, fails to comply with a direction given to him under section 6 commits an offence.

(4) The owner, his agent or the coxswain of a ferry vessel who, without reasonable excuse, fails to comply with a notice served on him under section 7, or fails to submit a return under section 8, commits an offence.

(5) A person who, without reasonable excuse, contravenes section 9, 23(3) or 26 commits an offence.

(6) A person who contravenes section 25 or 27 commits an offence.

(7) A person who---

(a) being a pass holder, without reasonable excuse, contravenes section 14(3), 17(2), 19, 20, 21 or 23(1);

(b) being an employer, without reasonable excuse, contravenes section 17(3), 18 or 23(2),

commits an offence.

(8) A person who---

(a) makes use of or retains in his possession a pass which he knows or ought reasonably to know---

(i) has been cancelled; or

(ii) has ceased to be valid;

(b) without reasonable excuse, defaces, alters or destroys a pass;

(c) in, or in connection with, an application made under section 13 or 24 makes a statement or gives any information which he knows or ought reasonably to know is false in a material particular or recklessly makes a statement which is false in a material particular or knowingly omits any material particular;

(d) being a pass holder, contravenes a condition subject to which the pass was issued, commits an offence.

(9) A person who contravenes section 11(1) or 14(2) commits an offence.

(10) A person who---

(a) commits an offence under subsection (1), (2), (3), (4), (5) or (6) is liable to a fine at level 1;

(b) commits an offence under subsection (7) is liable to a fine at level 2;

(c) commits an offence under subsection (8) is liable to a fine at level 3 and to imprisonment for 3 months;

(d) commits an offence under subsection (9) is liable to a fine at level 4 and to imprisonment for 6 months.

31. Power to detain persons

An authorized officer may, if he has reasonable grounds for believing that a person has contravened section 11(1), without warrant arrest that person and forthwith take him to a police station there to be dealt with in accordance with the Police Force Ordinance (Cap. 232).

Ms. Sandra LEE

Secretary for Economic Services

29 June 2001

Explanatory Note

This Regulation is made under section 89 of the Merchant Shipping (Local Vessels)

Ordinance (Cap. 548). It provides for the control of terminals for use by local vessels. It should be noted that many provisions of this Regulation are taken from the Shipping and Port Control (Ferry Terminals) Regulations (Cap. 313 sub. leg.) which regulate the establishment and control of terminals for use by vessels other than local vessels.

2. Part 1 (sections 1 to 3) is preliminary. Section 1 provides for the commencement of this Regulation while section 2 defines certain terms used in this Regulation. Section 3 provides that a terminal established under the Shipping and Port Control (Ferry Terminals) Regulations (Cap. 313 sub. leg.) is deemed to be established for the purposes of this Regulation.

3. Part 2 (sections 4 to 9) relates to the control of terminals. Section 4 provides that a terminal is to be under the control of the Director of Marine ("Director"). Section 5 requires a ferry vessel to berth at a terminal while section 7 allows the Director to specify the time of arrival and departure of ferry vessels. The Director may also require the owner, his agent or the coxswain of a ferry vessel to submit a return showing the particulars of each voyage of the ferry vessel under section 8. Section 6 requires the owner, his agent or the coxswain of a local vessel to comply with the directions given by the Director. Further, under section 9, a person may only embark on, or disembark from, a local vessel in a terminal with the permission of the Director under certain circumstances.

4. Part 3 (sections 10 to 24) relates to the control of restricted areas within a terminal. Under section 10, a restricted area under the Shipping and Port Control (Ferry Terminals) Regulations (Cap. 313 sub. leg.) is deemed to be a restricted area under this Regulation. Section 11 prohibits a person without a valid pass from remaining in a restricted area. This restriction does not, however, apply in the case of a bona fide passenger referred to in section 22. Section 12 sets out the different types of passes that may be issued by the Director. Sections 13 to 20, 23 and 24 relate to the application, contents, cancellation, surrender, reporting of loss and replacement of passes. The conditions for the use of passes in restricted areas are prescribed under section 21.

5. Part 4 (sections 25 to 31) sets out the miscellaneous provisions. Under section 25, no person may board, or load a vehicle or other cargo on a local vessel except with the permission of the coxswain. Under section 26, the permission from the Director is required for a person to remain on board a ferry vessel in a terminal. Section 27 prohibits a person from littering, throwing anything that may cause injury, throwing life buoy, begging or fishing from a local vessel within a terminal. Sections 28 and 29 govern the payment of fees for berthing and embarkation. Section 30 sets out the offence and penalty provisions. Finally, section 31 empowers an authorized

officer to arrest a person whom he reasonably believes to have entered or remained in a restricted area without a valid pass.