

**For discussion on
20 March 2002**

Legislative Council Panel on Economic Services

**Merchant Shipping (Local Vessels) (General) Regulation and
Merchant Shipping (Local Vessels) (Safety Survey) Regulation**

INTRODUCTION

This paper sets out two regulations we propose to make under the Merchant Shipping (Local Vessels) Ordinance, Cap. 548, namely the Merchant Shipping (Local Vessels) (General) Regulation ("LV(G)R") and Merchant Shipping (Local Vessels) (Safety Survey) Regulation ("LV(SS)R").

BACKGROUND

2. The port of Hong Kong has been served by vessels shuttling between different locations within Hong Kong waters for different purposes, e.g. carrying of passengers or cargoes. These are termed local vessels which are distinguished from the ocean-going vessels engaged in international voyages.

3. Over the years, local vessels have been controlled and regulated

under different pieces of laws. The administration of them is governed by requirements in various ordinances and their subsidiary legislation. This is not user-friendly to owners and operators of local vessels.

4. In July 1999, the Legislative Council enacted the Merchant Shipping (Local Vessels) Ordinance, Cap. 548 (the "Ordinance") which consolidated the provisions previously set out in different ordinances into one piece of legislation dedicated for local vessels. Implementation of the Ordinance entails the introduction of a number of subsidiary legislation. We plan to make a total of ten pieces of subsidiary legislation under the Ordinance. We introduced three of these ten subsidiary legislation into the Legislative Council in 2001. They were the Merchant Shipping (Local Vessels) (Dwelling Vessels) Regulation, Merchant Shipping (Local Vessels) (Ferry Terminals) Regulation and Merchant Shipping (Local Vessels) (Conduct of Inquiries) Rules. These three Regulations / Rules have been enacted.

5. At the last meeting on 25 February 2002, we briefed Members on two of the seven remaining regulations made under the Ordinance, namely the Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation and Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation. At the meeting on 20 March 2002, we will brief Members on another two of the seven remaining regulations, i.e. the LV(G)R and LV(SS)R.

PROPOSALS

(a) Merchant Shipping (Local Vessels) (General) Regulation

6. The current LV(G)R aims to include new provisions to enhance the safe operation of local vessels within Hong Kong waters related to the following three regulatory areas -

(i) Designation of bunkering areas within Hong Kong waters

7. Oil bunkering activities conducted by vessels are currently governed by regulation 45(2) of the Shipping and Port Control Regulations, Cap. 313 sub. leg. ("SAPCR") According to that regulation, an oil bunkering vessel not exceeding 2 000 net tonnage may lie alongside another vessel for the purpose of bunkering.

8. Other than regulation 45(2) of the SAPCR, bunkering activities in the waters of Hong Kong are not regulated under existing law. However, such activities have recently been found to be proliferating near the boundary of Hong Kong waters due to the sharp increase in the extra-territory demand for diesel oil. At those exposed locations at sea, both the oil bunkering vessel and oil receiving vessel may suffer from excessive motions caused by the sea and swells, thus causing the risks of marine pollution and accidents. Such risks have further been increased by the fact that some of the bunkering operations involve vessels which are underway.

9. The Marine Department has warned the industry that the above bunkering operations have inherent danger and risks of marine pollution, and has solicited the trade's co-operation to conduct bunkering activities at sheltered and safe locations such as specified anchorages. However, in view of the risks involved in and the possible consequences of incidents caused by those operations, the Director of Marine considers that it is necessary to step

up the regulation and control of bunkering activities in non-sheltered areas of Hong Kong waters. This will be achieved by the new provisions in the LV(G)R to the effect that -

- A bunker delivering vessel may deliver bunker to a bunker receiving vessel without the need for permission of the Director of Marine if the latter vessel is berthed alongside any jetties or pier or moored or anchored within the Victoria port as referred to in the Schedule to the Shipping and Port Control (Ports) Order, Cap. 313 sub. leg. or a special anchorage referred in paragraph 3(a) to (g) of the Seventh Schedule to the SAPCR;
- A bunker delivering vessel may also deliver bunker to a bunker receiving vessel without the need for permission of the Director of Marine if this bunker delivering vessel is anchoring within a designated bunkering area in Yau Tong; Cheung Sha Wan; certain areas outside Aberdeen West Typhoon Shelter, Cheung Chau Typhoon Shelter and Tuen Mun Typhoon Shelter; South of Tuen Mun Immigration Anchorage; North of Yaumatei Anchorage and Sai Kung Harbour;
- The specified anchorages and designated bunkering areas above are relatively sheltered and safe locations for bunkering operations and are traditionally used for conducting bunkering operations by the industry. Bunkering operations outside these locations are considered less safe and would not be allowed unless the permission of the Director of Marine has been obtained in advance;

- Any local vessel will be prohibited from delivering bunker to or receiving bunker from another vessel while both of the vessels are underway; and
- It will be an offence for any contravention of the new provisions proposed above. The owner, his agent or the coxswain of the vessel concerned should be targeted for the offence and will be liable to a fine at level 5, i.e. \$50,000 and to imprisonment for six months.

(ii) Overboard cargoes

10. Incidents which involve cargoes fallen overboard may endanger the safety of life and may have far-reaching consequences to the marine environment. It is therefore critical for an emergency team, whether it is on board or will provide external assistance to a vessel in the event of incidents, to have good knowledge of whether the cargoes involved in an incident contain any dangerous elements or marine pollutants. It is also necessary to ensure that the owner, his agent and the coxswain of the vessel in an incident will take immediate actions to remove any cargoes fallen overboard so as to minimise the risks to other vessels in the vicinity as well as possible impacts on the environment.

11. In view of the importance to identify the nature of cargoes and remove overboard cargoes stressed above, we propose to strengthen the regulatory regime related to overboard cargoes by making new provisions in the LV(G)R which will specify that -

- When a local vessel is carrying any cargoes in transit and for import, export or transshipment, it shall have a record in writing of all such cargoes carried on board at all times. The record should provide description of the cargoes, including the kind of packaging, gross weight and sizes, names and addresses of the consignor and consignee, etc. The record aims to facilitate the crew and any other persons rendering assistance to the vessel in the event of an incident to identify the nature of the cargoes involved, and to rectify and control the emergency situation effectively; and
- It will be an offence for any contravention of the above new provision. Subject to a due diligence defence, the owner, his agent or the coxswain of the vessel will be liable for a fine at level 2, i.e. \$5,000;
- The owner, his agent and the coxswain shall also be liable for the removal of any overboard cargoes from the sea. In this respect, the Director of Marine may give direction to any of them to require that actions be taken to remove overboard cargoes;
- It will be an offence for any failure to comply with the direction given by the Director of Marine above. Unless reasonable excuse is provided, the owner, his agent or the coxswain will be liable for a fine at level 4, i.e. \$20,000 and to imprisonment for one year; and

- If any overboard cargo is not removed within the time specified by the Director of Marine in the relevant direction given, the Director of Marine may take actions to remove the cargo and claim all expenses incurred from the liable person.

(iii) Issue of new permits to Mainland vessels and vessels licensed in the Macau Special Administrative Region

12. Mainland vessels operating within coastal or river trade limits and vessels licensed in the Macau Special Administrative Region are currently allowed to remain in Hong Kong waters by obtaining a permit issued under either regulation 3 of the Merchant Shipping (Miscellaneous Craft) Regulations, Cap. 313 sub. leg. ("MCR") (in respect of any vessels other than tugs) or regulation 7 of the Merchant Shipping (Launches and Ferry Vessels) Regulations, Cap. 313 sub. leg. ("LFVR") (in respect of tugs). When the Ordinance comes into force, the MCR and LFVR will be repealed. Mainland vessels and vessels licensed in Macau will then be issued with permits as provided for under section 89(2) of the Ordinance. The LV(G)R will make the necessary provision to empower the Director of Marine to issue the new permits.

(b) Merchant Shipping (Local Vessels) (Safety Survey) Regulation

13. The purpose of the LV(SS)R is to prescribe the requirements regarding the safety construction, machinery, equipment and survey of local vessels. Such requirements are currently scattered among the following three ordinances and/or their subsidiary legislation namely -

- (i) The Shipping and Port Control Ordinance, Cap. 313;
- (ii) The Merchant Shipping (Safety) Ordinance, Cap. 369; and
- (iii) The Merchant Shipping (Prevention of Oil Pollution) Ordinance, Cap. 413.

14. The proposed provisions in the LV(SS)R seek to transfer these scattered provisions to one place (i.e. the LV(SS)R). In addition, the LV(SS)R will make the following provisions to streamline existing arrangements, codify existing practices and adopt internationally-accepted practices applied to vessel operation -

- (i) The Director of Marine will formally delegate powers to a ship inspector to carry out survey and to sign and issue certificate for a local vessel.

Under current practice, a ship inspector conducts an inspection, signs the relevant certificates after the inspection, and issues such certificates based on an internal order issued by the Director of Marine. We propose to codify this order arrangement in the LV(SS)R so that the Director of Marine will not need to issue order on a case to case basis in the future, thus enhancing efficiency of the procedures.

- (ii) Cargo vessels involved in high-risk operations will be subject to more stringent safety requirements and will need to be certified.

Currently certain types of dry cargo vessels and oil carriers operating within Hong Kong waters or river trade limits are

regarded as "high risk" vessels. These vessels are required to be issued with a Record of Safety Equipment which is a condition for licensing the vessels. The LV(SS)R will prescribe this prevailing requirement.

- (iii) The international standard that any space on a vessel, where the noise level at maximum operating speed of propulsion engines exceeds 85dB, should not be assigned for passenger space will be codified.

The above requirement follows the International Maritime Organisation (IMO)'s recommendations prescribed in the "Code on Noise Levels on Board Ships". The Marine Department has been applying this to all local passenger vessels administratively through prescribing the requirement in the "Instructions for the Survey of Class I and Class II Launches and Ferry Vessels" issued to the industry in 1995. We will formally provide for the above requirement in the law, i.e. the LV(SS)R;

- (iv) Radar will be regarded as part of the navigational equipment on ferry vessels in order to facilitate navigation in restricted visibility and under heavy marine traffic situation. This will be achieved by codifying the existing requirement for approved-type radar and the associated requirement for trained radar operator in ferry vessels plying outside Victoria port, which are specified in the Certificate of Survey for the Hull, Machinery and Equipment of Launches and Ferries, as formal provisions in the LV(SS)R. Any non-compliance will be an offence. The owner,

his agent or the coxswain of the ferry vessel concerned should be targeted for the offence and will be liable to a fine at level 3, i.e. \$10,000; and

- (v) Application of freeboard and related certification requirements currently applied to dumb lighters carrying dry cargoes will be extended to certain categories of other cargo vessels, e.g. dangerous goods carriers and barges, oil carrier and barges, noxious liquid substance carrier and barges, dredgers and waterboats under the LV(SS)R. This is to reflect the prevailing internationally accepted practice in respect of such cargo vessels.

CONSULTATION

15. The Provisional Local Vessel Advisory Committee and its relevant sub-committees / working group which comprise a wide-cross section of representatives from the local shipping industry are consulted on the proposed provisions under the LV(G)R and LV(SS)R during the drafting process. They support the proposed provisions.

Economic Services Bureau

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