

LEGISLATIVE COUNCIL BRIEF

**SHIPPING AND PORT CONTROL (AMENDMENT)
REGULATION 2002**

INTRODUCTION

A At the meeting of the Executive Council on 25 June 2002, the Council ADVISED and the Chief Executive ORDERED that the Shipping and Port Control (Amendment) Regulation 2002, at *Annex A*, should be made under section 80(1) of the Shipping and Port Control Ordinance to impose a designated area in the Kap Shui Mun water area and require all vessels to tender pre-arrival notification (PAN).

BACKGROUND AND ARGUMENT

Imposing a Special Area in the Kap Shui Mun area

2. At present, through traffic to and from the northwestern approaches of Hong Kong waters are free to be conducted in either the Kap Shui Mun Fairway or Ma Wan Fairway. Such traffic can be both southeast-bound and northwest-bound. The average navigational width of the Kap Shui Mun Fairway and Ma Wan Fairway are 210 metres and 680 metres respectively.

3. In view of the collision incidents that happened in the Kap Shui Mun area, Marine Department conducted an in-house study in the year 2000 on the traffic using the area with a view to developing measures to improve navigational safety there. The study recommends, inter alia, that a single direction traffic scheme should be introduced to the Kap Shui Mun area. Under the scheme, through traffic in the northern part of the much narrower Kap Shui Mun Fairway should be limited to southeast-bound only. The two-way bound traffic arrangement in both the southern part of the Kap Shui Mun Fairway and the entire Ma Wan Fairway can remain unchanged. The recommendation seeks to improve

navigational safety in the Kap Shui Mun area by reducing the chances of head-on situation.

4. During the consultation with the parties concerned, there was a concern that the recommended scheme might affect the kaitoes, small fishing boats, sampans, etc., which generally have an overall length not exceeding 10 metres, operating in the area. These vessels, about 300 in number, have a practical need to travel to and from the Ma Wan Island or the Ma Wan fish culture zone. Taking into account the above concern and that these small crafts have not been causing significant safety risks to the through traffic in the Kap Shui Mun area, Marine Department has concluded that the single direction traffic scheme should apply to vessels with an overall length exceeding 10 metres only.

Applying the requirement for tendering PAN to all vessels entering Hong Kong waters

5. At present, vessels exceeding 300 tons gross are statutorily required to tender a PAN to Marine Department before entering Hong Kong waters under regulation 6A of the Shipping and Port Control Regulations ("SAPCR"). The same requirement does not apply to vessels of 300 tons gross or less and river trade vessels which are generally referred to as "small-sized vessels". This arrangement has been in place since 1989. It was then considered acceptable because the number of arrivals of small-sized vessels in Hong Kong waters had been much lesser than nowadays. Besides, the small-sized vessels have not been required under the relevant international maritime regulations to be equipped with marine radio to enable communication between Marine Department and the vessels for the purpose of tendering PAN.

6. Over the years, however, the number of marine accidents within Hong Kong waters involving small-sized vessels has increased significantly. Different means of communication (e.g. facsimile and electronic mail) between these vessels and Marine Department have also become available. We consider it both necessary and viable to strengthen the effective control over the small-sized vessels by way of extending the PAN requirement to these smaller vessels. Based on the PAN, the Director of Marine will be able to give early direction on routing to a vessel on its way to Hong Kong waters, or refuse the vessel's entry into Hong Kong waters on safety grounds.

7. On the other hand, we consider that locally licensed vessels should continue to be exempt from the statutory PAN requirement

because these vessels operate mostly in Hong Kong waters and the particulars of them are well known to Marine Department. In case there are dangerous goods carried on board these vessels, they are required under their licensing conditions to report movements of the vessels to Marine Department. Besides, there is no need for applying the statutory PAN requirement to ferry vessels plying regularly between Hong Kong and Macau / the Mainland and ferry vessels engaged in short international voyages because these vessels are already required to report information included in a PAN through other measures to Marine Department.

THE PROPOSALS

(A) Designation of Kap Shui Mun Special Area

B 8. To impose the directional requirement in the Kap Shui Mun area in paragraphs 3 and 4 above, we propose to designate the water area bounded between the northeastern coast of the Lantau Island, and the islands of Ma Wan and Tang Lung Chau as a Special Area in the SAPCR (i.e. the shaded area in the location plan at *Annex B*). Vessels with an overall length exceeding 10 metres should not enter the Special Area from its southeastern and northeastern boundaries. This would serve the purpose of limiting through traffic in the Special Area, where the northern part of the Kap Shui Mun Fairway is located, to the southeast-bound direction because due to geographical and physical constraints and with the prohibited entry from the southeastern and northeastern boundaries of the Special Area in place, vessels with an overall length exceeding 10 metres would naturally only enter the Area from its northern boundary. For a limited number of small crafts which might have an overall length exceeding 10 metres, they would be allowed to leave the Ma Wan Island and Ma Wan fish culture zone for the Special Area without being bounded by the new legal arrangement.

(B) Extended application of the statutory PAN requirement

9. To extend the application of the statutory PAN requirement to small-sized vessels in paragraph 5 above, we propose to amend regulation 4 of the SAPCR to the effect that vessels of any tons gross intended to enter Hong Kong waters shall tender a PAN to the Director of Marine.

10. Corresponding to the extended application of the PAN requirement, we propose to amend the PAN to include "Marine

Department (MD) reference number" (which is the identification assigned by Marine Department to a vessel at its first-time entry into Hong Kong waters) and "official number" (which is assigned by the Flag State of a vessel when the vessel registers in that Flag State) in addition to "call sign" as identification acceptable for a vessel. This is to cover situation where a small-sized vessel may not be equipped with radio communication device and may not have a call sign which is the identity used for radio communication. This vessel should then report either its MD reference number or official number (in case of first-time entry into Hong Kong waters) on the PAN.

(C) Ancillary amendments

11. We also propose to take the opportunity to update the information requirement on the PAN in respect of two items -

- (a) To replace "gross registered tonnage" in item 5 of the PAN to "gross tonnage". This is a technical amendment seeking to adopt the terminology and method of tonnage measurement consistent with those adopted in regulation 4 of the Merchant Shipping (Registration) (Tonnage) Regulations; and
- (b) in addition to the purpose of call, to facilitate the planning of the Customs and Excise Department for search assignments, we propose to amend item 8 of the PAN to also include "intended berth or anchorage on arrival" to the information to be reported.

THE REGULATION

12. The main provisions of the Regulation are -

- (a) **Clause 2** amends regulation 4 to the effect that regulation 6A (PAN or report for permission to enter the waters of Hong Kong) will generally apply to vessels of any tons gross except locally licensed vessels and "ferry vessels" within the meaning of regulation 2 of the Shipping and Port Control (Ferry Terminals) Regulations (i.e. ferry vessels plying regularly between Hong Kong and Macau / Mainland and ferry vessels engaged in short international voyages).
- (b) **Clause 3** amends regulation 23 to prohibit any vessel with an

overall length exceeding 10 metres from entering the Special Area to be designated in the Kap Shui Mun area from the Area's southeastern and northeastern boundaries, i.e. it shall not enter the Special Area from the line drawn from the Tang Lung Chau light to a headland at Lantau Island, or from the Tang Lung Chau light to the southern shore of Ma Wan.

- (c) **Clause 4** designates in the Fifth Schedule the area to be referred as the Kap Shui Mun Special Area and the southeastern and northeastern boundaries of the Area.
- (d) **Clause 5** amends the Sixteenth Schedule to add "MD reference number" and "official number" as alternative ways of identification by vessels of 300 tons gross or less to which the PAN requirement will extend application; to replace "gross registered tonnage" in item 5 of the PAN to "gross tonnage" to reflect the terminology and method of tonnage measurement adopted in the Merchant Shipping (Registration) (Tonnage) Regulations; and to amend item 8 of the PAN to also include "intended berth or anchorage on arrival" to the list of information reported in order to facilitate the planning of search assignments of the Customs and Excise Department.

LEGISLATIVE TIMETABLE

13. The legislative timetable for the Regulation will be -
- | | |
|------------------------------------|--|
| Publication in the Gazette | 5 July 2002 |
| Tabling at the Legislative Council | 10 July 2002 |
| Implementation | To be appointed by the Secretary for Economic Development and Labour |

BASIC LAW IMPLICATIONS

14. The Department of Justice advises that the Regulation does not

conflict with those provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

15. The Department of Justice advises that the Regulation is consistent with the human rights provisions of the Basic Law.

BINDING EFFECT OF THE LEGISLATION

16. The Regulation will not affect the current binding effect of the Shipping and Port Control Ordinance.

FINANCIAL AND STAFFING IMPLICATIONS

17. The Regulation will not give rise to additional financial and staffing implications for Government. Marine Department will enforce the Regulation using their existing resources.

ECONOMIC IMPLICATIONS

18. The Regulation will enhance navigational safety and give rise to positive economic implications for Hong Kong.

ENVIRONMENTAL IMPLICATIONS

19. There are no environmental implications.

SUSTAINABILITY ASSESSMENT

20. The Regulation does not have major sustainability implications, but would help enhance navigational safety within Hong Kong waters including the Kap Shui Mun area.

PUBLIC CONSULTATION

21. The amendments proposed in paragraph 8 above concerning the Special Area in the Kap Shui Mun area are supported by the Port Operations Committee, Provisional Local Vessel Advisory Committee and Pilotage Advisory Committee. For the amendments proposed in paragraphs 9 and 10 above related to the PAN requirement, the local shipping agents of the vessels concerned were consulted in March 2000 and the proposed requirement has been applied through administrative means since 5 April 2000. The implementation and enforcement of the requirement have been smooth so far.

22. We briefed the LegCo Panel on Economic Services on the Regulation at its meeting on 25 February 2002. The Panel gave support in-principle to the Regulation.

PUBLICITY

23. A press release will be issued on 5 July 2002. A spokesman will be made available to answer media and public enquiries.

ENQUIRY

24. Any enquiry on this brief can be addressed to Mr K M LEE, Assistant Director of Marine (2852 4403) or Miss Polly CHOY, Assistant Secretary (Port, Maritime and Logistics Development Unit) (2537 2842).

Economic Development and Labour Bureau
5 July 2002

**SHIPPING AND PORT CONTROL (AMENDMENT)
REGULATION 2002**

(Made by the Chief Executive in Council under section 80(1)
of the Shipping and Port Control Ordinance (Cap. 313))

1. Commencement

This Regulation shall come into operation on a day to be appointed by the Secretary for Economic Development and Labour by notice published in the Gazette.

2. Regulation substituted

Regulation 4 of the Shipping and Port Control Regulations (Cap. 313 sub. leg.) is repealed and the following substituted -

"4. Application

(1) This Part, other than regulation 6A, applies to -

(a) a vessel of over 300 tons gross other than a vessel to which Part IV of the Ordinance applies;

(b) a vessel -

(i) of 300 tons gross or less; or

(ii) to which Part IV of the Ordinance applies,

and which is the subject of a direction given by the Director under section 16 of the Ordinance;

(c) a vessel -

- (i) of 300 tons gross or less; or
- (ii) to which Part IV of the Ordinance applies,

and which is the subject of a requirement made by the Director or an authorized officer at the vessel traffic centre to participate in the vessel traffic service.

(2) Subject to paragraph (3), regulation 6A applies to any vessel (including a vessel to which Part IV of the Ordinance applies), whatever its tonnage, other than the following vessels -

- (a) a vessel licensed in accordance with the regulations made under Part IV of the Ordinance; and
- (b) a ferry vessel within the meaning of regulation 2 of the Shipping and Port Control (Ferry Terminals) Regulations (Cap. 313 sub. leg.).

(3) Regulation 6A applies to a vessel referred to in paragraph (2)(a) or (b) if it is the subject of a direction given by the Director under section 16 of the Ordinance."

3. Entry into restricted areas, etc.

Regulation 23 is amended by adding -

"(6D) Except with the permission of the Director, no vessel which has an overall length exceeding 10 metres shall

enter the Kap Shui Mun Special Area specified in paragraph 18 of the Fifth Schedule -

- (a) by crossing over the south-eastern boundary of the Special Area specified in paragraph 19 of the Fifth Schedule; or
- (b) by crossing over the north-eastern boundary of the Special Area specified in paragraph 20 of the Fifth Schedule."

4. Restricted areas, etc.

The Fifth Schedule is amended by repealing the Note at the end and substituting -

"18. KAP SHUI MUN SPECIAL AREA

The area of the waters of Hong Kong bounded -

- (a) on the north-west, by a straight line drawn from the north-eastern shore of Lantau Island at position latitude $22^{\circ}20.750'$ north, longitude $114^{\circ}03.017'$ east to the West Ma Wan light at position latitude $22^{\circ}20.925'$ north, longitude $114^{\circ}03.241'$ east;
- (b) on the north-east, by a straight line drawn from the West Ma Wan light at position latitude $22^{\circ}20.925'$ north, longitude $114^{\circ}03.241'$ east to the Tang Lung Chau light at position latitude $22^{\circ}20.373'$ north, longitude $114^{\circ}03.787'$ east;
- (c) on the south-east, by a straight line drawn from the Tang Lung Chau light at position latitude

22°20.373' north, longitude 114°03.787' east to the headland at position latitude 22°20.126' north, longitude 114°03.455' east;

- (d) on the south-west, by a straight line drawn from the headland at position latitude 22°20.126' north, longitude 114°03.455' east to the north-eastern shore of Lantau Island at position latitude 22°20.750' north, longitude 114°03.017' east.

19. SOUTH-EASTERN BOUNDARY OF THE KAP SHUI MUN SPECIAL AREA

The boundary of the waters of Hong Kong indicated by a straight line joining the Tang Lung Chau light at position latitude 22°20.373' north, longitude 114°03.787' east to the headland at position latitude 22°20.126' north, longitude 114°03.455' east.

20. NORTH-EASTERN BOUNDARY OF THE KAP SHUI MUN SPECIAL AREA

The boundary of the waters of Hong Kong indicated by a straight line joining the Tang Lung Chau light at position latitude 22°20.373' north, longitude 114°03.787' east to the southern shore of Ma Wan at position latitude 22°20.554' north, longitude 114°03.608' east.

Note: The geographical co-ordinates of paragraphs 16 to 20 are represented by the WGS 84."

5. Information to be provided to the Director by Notification or Report under regulation 6A

The Sixteenth Schedule is amended -

(a) by repealing item 2 and substituting -

"2. The call sign or MD reference number or
(in the absence of call sign or MD
reference number) official number of
vessel.";

(b) in item 5, by repealing "registered";

(c) in item 8, by adding "and intended berth or
anchorage on arrival" after "call";

(d) by adding after item 17 -

Note: In this Schedule, for the purpose of
item 2 -

"MD reference number" (海事處參考編號), in
relation to a vessel which arrives at
the waters of Hong Kong for the first
time, means a reference number assigned
by the Director to the vessel for the
purpose of reporting arrival and
departure of the vessel.".

Clerk to Executive Council

COUNCIL CHAMBER

2002

Explanatory Note

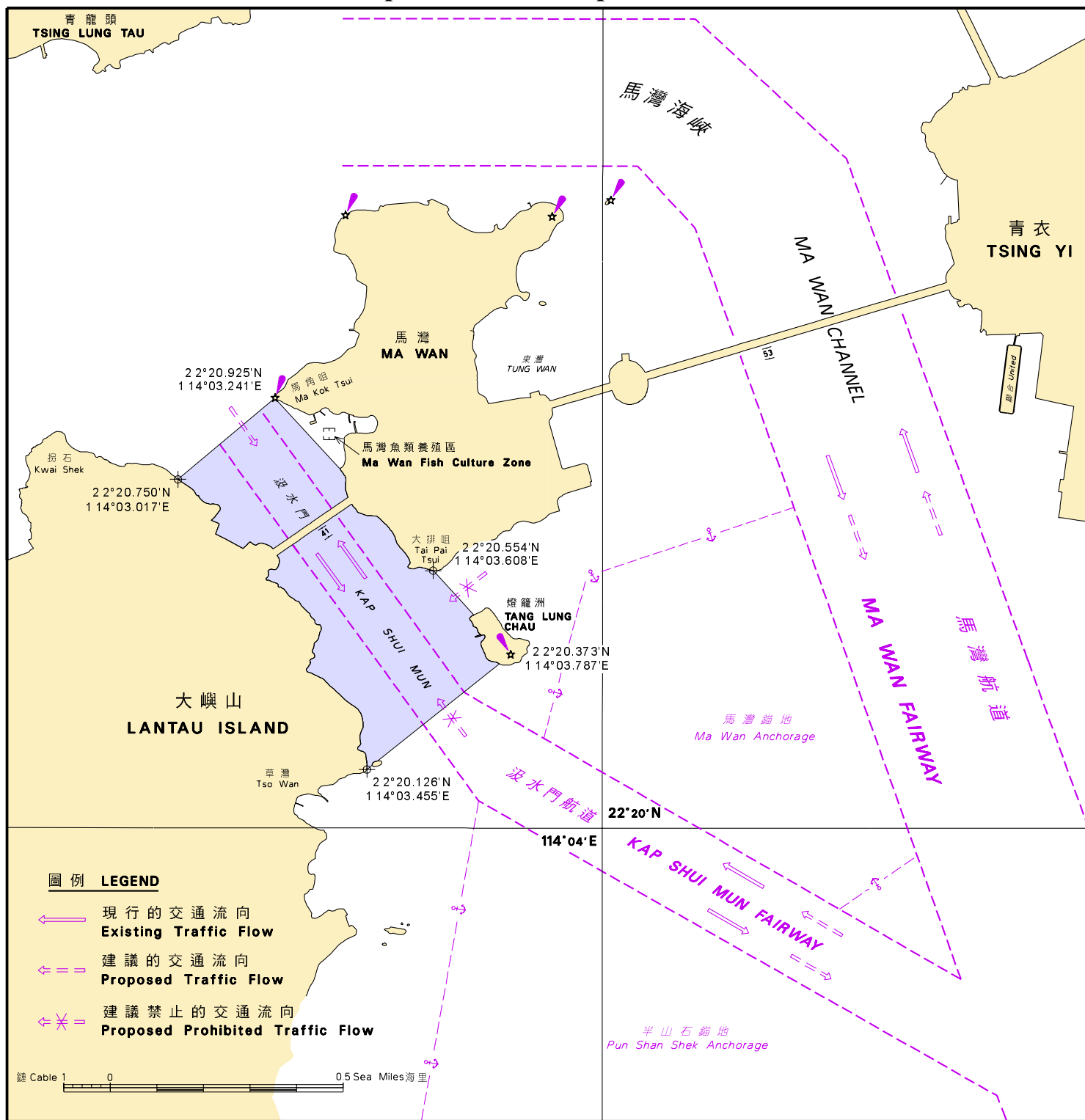
This Regulation amends the Shipping and Port Control Regulations (Cap. 313 sub. leg.)("the Regulations") -

- (a) to prohibit the entry into the Kap Shui Mun Special Area of vessels with an overall length exceeding 10 metres from the south-eastern and north-eastern boundaries of the Special Area and to specify the geographical co-ordinates defining such an Area and the boundaries concerned;
- (b) to require vessels of any tonnage (other than the exempted ones) to tender a pre-arrival notification to the Director of Marine ("the Director") under regulation 6A of the Regulations. The exempted vessels are of 2 types. The first type is those vessels licensed in Hong Kong in accordance with the regulations made under Part IV of the Shipping and Port Control Ordinance (Cap. 313). The other type is ferry vessels plying between Hong Kong and

Macau, between Hong Kong and any other place of
China as well as those engaged on short
international voyage;

- (c) to modify the information to be provided to the
Director by a pre-arrival notification or report.

汲水門特別區域 Kap Shui Mun Special Area



海事處海道測量部於2002年6月繪製
Prepared by the Hydrographic Office,
Marine Department. June 2002

基準 WGS84
Datum

圖則編號 2002MAR053
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